Congressional Record.

PROCEEDINGS AND DEBATES OF THE SIXTY-SIXTH CONGRESS
SECOND SESSION.

SENATE.

SATURDAY, *February 21, 1920.*

The Chaplain, Rev. Forrest J. Prettyman, D. D., offered the following prayer:

Almighty God, in Thy gracious favor Thou hast revealed unto us the path of life. Thou hast conditioned our highest good upon the achievement of character, and Thou hast given to us the great principles upon which we may build a character that can stand the test of time. We pray Thy blessing upon us today that we may have our eyes ever on Thy Word, our hearts ever going out in humble obedience to Thy will, and our lives consecrated to Thy service. For Christ's sake. Amen.

The Vice President being absent, the President pro tempore took the chair.

On request of Mr. SMOOT, and by unanimous consent, the reading of the Journal of the proceedings of the legislative day of Wednesday, February 18, 1920, was dispensed with and the Journal was approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by D. K. Hempstead, its enrolling clerk, announced that the House had passed a bill (H. R. 12351) to extend the time for the construction of a bridge across the Roanoke River in Halifax County, N. C., in which it requested the concurrence of the Senate.

HOUSE BILL REFERRED.

H. R. 12351. An act to extend the time for the construction of a bridge across the Roanoke River in Halifax County, N. C., was read twice by its title and referred to the Committee on Commerce.

CALLING OF THE ROLL.

Mr. BRANDEGEE obtained the floor.

Mr. SMOOT. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Secretary will call the roll.

The roll was called, and the following Senators answered to their names:

Ashurst	Frelinghuysen	King	Pittman
Ball	Gay	Kirby	Poindexter
Beckham	Glass	Knox	Ransdell
Brandegee	Gronna	Lenroot	Robinson
Capper	Hale	Lodge	Sheppard
Chamberlain	Harris	McKellar	Simmons
Colt	Harrison	McLean	Smith, Ga.
Culberson	Henderson	McNary	Smoot
Cummins	Johnson, Calif.	Moses	Spencer
Curtis	Johnson, S. Dak.	Nelson	Stanley
Dial	Jones, N. Mex.	New	Sterling
Dillingham	Jones, Wash.	Norris	Thomas
Edge	Kellogg	Nugent	Townsend
Elkins	Kendrick	Overman	Trammell
Fletcher	Kenyon	Page	Walsh, Mont.
France	Keyes	Phipps	Warren

Mr. GRONNA. I was requested to announce that the Senator from Wisconsin [Mr. LA FOLLETTE] is absent on account of illness. I ask that this announcement may stand for the day.

Mr. DIAL. I desire to state that my colleague [Mr. SMITH of South Carolina] is absent on account of illness. I ask that this notice may continue for the day.

Mr. CURTIS. I have been requested to announce that the Senator from West Virginia [Mr. SUTHERLAND] is detained by illness.

Mr. McKELLAR. The Senator from Oklahoma [Mr. GORE] and the Senator from Delaware [Mr. WOLCOTT] are absent on public business.

The Senator from Virginia [Mr. SWANSON] is detained by illness in his family, and the Senator from Massachusetts [Mr. WALSH] is detained by the illness of a member of his family.

The Senator from Rhode Island [Mr. GERRY] is detained at home by illness.

The Senator from Nebraska [Mr. HITCHCOCK], the Senator from Maryland [Mr. SMITH], the Senator from California [Mr. PHELAN], the Senator from Tennessee [Mr. SHIELDS], and the Senator from Ohio [Mr. POMERENE] are absent on official business.

The PRESIDENT pro tempore. Sixty-four Senators have answered to their names. There is a quorum present.

SALE OF SHIPS.

Mr. BRANDEGEE. Mr. President, I find in the RECORD, on page 3380, under the date of February 20, the following:

> The Vice President laid before the Senate the following message from the President of the United States, which was read and, with the accompanying paper, ordered to lie on the table and be printed.

The RECORD then proceeds to print the message of the President, which is Senate Document No. 231, entitled "Sale of ships." It does not print the accompanying paper to which it refers. The President stated:

> I am, nevertheless, transmitting it in order that the Senate may be in possession of all the information there is in any way relating to the vessels in question. I had intended to submit this to Congress at the appropriate time, after the ratification of the treaty with Germany.

Of course, the message of the President is not fully intelligible except as the paper, in the nature of an agreement or understanding between him and Lloyd-George, is printed with it, and I ask unanimous consent that in the permanent issue of the RECORD the understanding submitted by the President may be printed immediately following the message of the President.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Connecticut?

Mr. FLETCHER. May I ask the Senator to state again what his request is? I could not follow it, owing to some confusion in the Chamber.

Mr. BRANDEGEE. The request is that the paper which the President transmitted with his message be printed in the RECORD in conjunction with the message.

Mr. FLETCHER. Yes; I think that is right.

The PRESIDENT pro tempore. The Chair hears no objection, and it is ordered accordingly.

Mr. BRANDEGEE. While I have the floor, Mr. President, I desire to state in this connection that last Saturday, as will appear on page 2907 of the RECORD, I introduced the resolution to which the President replied. I stated then as follows:

> I simply desire to state that I have several times heard, from what I think is good authority, that there was some understanding between the President and Lloyd-George, or some member of the British Government, in relation to the disposition of the German ships or the proceeds derived from them in case they were disposed of. I do not know whether or not that is a fact. If it is, I should like to know it, as being germane to the subject which we are now considering. I should like to have the resolution considered and agreed to.

Thereon, for about half a column, there were questions and answers between me and several Senators in relation to that matter.

Mr. KING. May I ask the Senator whether the matter about which he inquires related only to the captured ships—not to the interned ships?

Mr. BRANDEGEE. The resolution, as the Senator will see from the RECORD, on page 2907, did not call them interned ships. It describes them as the German ships which the Shipping Board were proposing to sell. It also inquired whether there was any understanding or agreement in relation to any other ships that came into our possession after the close of hostilities.

I did not know whether we had acquired any such shipping or not, and inasmuch as the Shipping Board was proposing to sell, and doubt was expressed by the Senator from Nebraska [Mr. HITCHCOCK] both previously and in his talk the other day as to the title of this Government in those ships, I desired to see what was the status of those ships, how they came into our possession, as to whether we had a right to sell them, and as to whether there was any agreement either as to their sale or as

to their disposition. I alleged nothing. I simply wanted to ascertain the status.

I see in the Washington Post this morning, on the first page, an article by the Associated Press headed:

No deal for vessels.
Emphatic denial President's reply to Senate inquiry.
Transmits Paris proposal.
Crediting Germany with surplus valuation contemplated.

Mr. President, I did not allege that there was any deal by the President of the United States with anyone for the sale of ships or anything else. I introduced a resolution, respectfully worded, containing the clause "if not incompatible with the public interest," and, as appears in the RECORD, I stated that if it was incompatible with the public interest, of course the President would say so, and I did not want the information if it was incompatible with the public interest.

The President states that—

The ships for the purchase of which bids have been asked by the Shipping Board were taken over by Executive orders issued pursuant to the joint resolution of Congress of May 12, 1917, authorizing the President to take over for the United States the possession and title of any vessel within its jurisdiction under enemy ownership—

And so forth. Then the President states that that was the way we came into the possession of these ships, which were afterwards taken over by Executive order by virtue of that action of Congress. He proceeds to state:

There is not, nor has there been, any agreement or understanding between the President of the United States and officials of Great Britain concerning the sale of the ex-German vessels in possession of the United States.

Of course, I did not intimate that there was. I wanted to know whether there was any understanding as to their disposition. The title was in question. I wanted to know in what way they were to be disposed of. It appears that they were disposed of, so far as the agreement made by the President which he sent here, but which has not yet been printed in the RECORD.

Mr. ROBINSON. Did the Senator state that they were disposed of?

Mr. BRANDEGEE. No; I did not.

Mr. ROBINSON. I simply call attention to the fact that the President says that—

This understanding, which recognizes American rights with regard to German vessels taken in our ports, does not relate to the disposition of such vessels by the United States.

The statement of the President is that the understanding which he reached with Lloyd-George, and which is contained in the paper which is not printed in connection with the President's reply, and which paper the Senator has asked may be printed, did not relate to the disposition of the vessels, but related to a recognition of American rights.

Mr. BRANDEGEE. The Senator does not ask a question, but he makes a statement which I myself was about to make, which is made here by the President and is printed in the RECORD. I entirely agree with the Senator. The President states that there was no agreement for the disposition of the ships or for their sale. I never made any charge whatever. I asked if the President would inform us whether there was an understanding for their disposition. The disposition of a vessel may be made in several ways, I suppose; that is, there are several ways of disposing of a vessel. As I understand the President, the disposition made of these vessels by the agreement to which he is a party is that they are to be the property of the United States, and the agreement when it is printed will show, in effect, for I read it very hastily——

Mr. LODGE. Mr. President, I rise to a question of order. I am trying to follow what the Senator from Connecticut is saying, but there is so much talking in the Chamber on this side that I can not hear it; at least, the confusion interferes with hearing.

Mr. ROBINSON. Will the Senator from Connecticut yield for a brief statement?

Mr. BRANDEGEE. I am trying to make a connected statement, but I yield for a question.

Mr. ROBINSON. If the Senator will yield, I desire to explain that, on account of the confusion in the Chamber, I could not hear the statement which he made just prior to my interruption of him a moment ago, but I understood him to say that the understanding which is embraced in the paper which was not printed related to the disposition of the vessels. I was merely pointing out the fact that the President stated that it did not relate to that.

Mr. BRANDEGEE. Mr. President, I suppose the Senator from Arkansas and I might argue here all day as to what the word "disposition" means. The President evidently understands that "disposition" means parting with the title to the ships. The agreement states that not only these ships but the ships which were enemy property in allied ports—to paraphrase it and state it briefly—shall be the property of the Governments where they were interned, that there shall be an appraisal of them, and that when it is ascertained what the claim of each country against Germany is for damage caused to its merchant shipping by the German submarine warfare the balance shall be adjusted; to take the specific case of America, that if the German ships which we interned are valued at more than the claim which we have against Germany for damages, the excess of valuation shall be paid into the reparation fund and be credited to Germany. The President says:

I believe the above information fully answers the Senate's inquiry. However, I am transmitting herewith a draft of a proposed understanding in regard to ex-enemy merchant tonnage to which I have given assent, subject to future action of Congress, as provided therein. Although this understanding, which recognizes American rights with regard to German vessels taken in our ports, does not relate to the disposition of such vessels by the United States, I am, nevertheless, transmitting it in order that the Senate may be in possession of all the information there is in any way relating to the vessels in question. I had intended to submit this to Congress at the appropriate time, after the ratification of the treaty with Germany.

Mr. President, I am glad that the President saw fit to transmit this agreement, which it was impossible to describe—at least I found it impossible to describe it—in any more polite or definite language than I employed. The agreement which the President made, so far as he could make it, subject to the subsequent consent of Congress, to a large extent bears out my information in the premises—that there was an agreement which provided that, in some way, the excess of the value of the German ships taken by the Allies should be paid into the reparation fund.

I am glad the President sent in this agreement, whether the agreement provides strictly, in his opinion, for a disposition of those ships or not. In my opinion, it does. Here are German ships which we simply seized by force, the title to which, according to the Senator from Nebraska [Mr. HITCHCOCK], is in question. If he simply said, "There is no agreement for a disposition of the ships," and relied upon a quibble or a difference in definition or interpretation of what the Senate meant by the word "disposition," I should not have felt it was quite frank; but the President knew that the Senate wanted information which would reveal the true status of those ships, and he very properly sent to us the agreement which he made. It is a lengthy agreement. I read it hastily here last night, and supposed it would be printed in the RECORD. It is an important agreement.

Mr. EDGE. Mr. President, may I ask the Senator a question?

The PRESIDENT pro tempore. Does the Senator from Connecticut yield to the Senator from New Jersey?

Mr. BRANDEGEE. I yield.

Mr. EDGE. In view of the rather extended agitation during the past few days as to the sale of the ships which have been advertised by the Shipping Board, and an apparently general desire to secure more money for the ships; in view also of the implied arrangement on the part of the President, if acquiesced in by Congress, it would make little difference, would it not, as to how much additional we received for the ships, as we shall be compelled under that agreement to pay into the reparation fund the difference between the appraisement already made and any additional money we might receive for the sale of the ships?

Mr. BRANDEGEE. Of course, whether the ships are sold or not would make some difference to us in this way, that if the ships were sold and there was a balance above our claim against Germany it would be paid into the reparation fund from the proceeds of the sale, whereas if they are not sold and there is such a balance it will have to be appropriated for by Congress and raised by taxation.

Mr. LODGE. Mr. President——

Mr. BRANDEGEE. I yield to the Senator from Massachusetts.

Mr. LODGE. The ships to which the Senator is now referring are those that were interned in our ports.

Mr. BRANDEGEE. Yes.

Mr. LODGE. Of course he excludes, as I understand, entirely the ships, such as those of the *Imperator* class, for instance, which were covered by the treaty and which we have already returned.

Mr. BRANDEGEE. The President says in his message, I think in a part which I did not take occasion to read to the Senate as not bearing upon the point I was discussing, that these are the only German ships of which we are now in possession; that there were some which were taken and allocated to the different allied Governments for the transportation of troops after the cessation of hostilities, which have been returned.

In relation to the President's remark that he had intended to send this agreement to us at the appropriate time after the

ratification of the treaty, I am very glad that he did not wait that length of time, because this question may be of some immediate interest at this session of Congress. I notice the Senator from Washington has reported a bill providing for the reconditioning of these ships. But why is it not appropriate that we should have this knowledge now in order to decide whether to hold these ships or whether to sell them? Why would it be more appropriate after the treaty with Germany shall be ratified?

I do not pretend to know the full history of this case, Mr. President; I do not understand why the President made his agreement simply with Lloyd-George, who is the only other signatory to the agreement, and not with the representatives of any of the other allied Governments. No doubt there is a good reason for that, but I do not see it; and I do not see what this question has to do in any way with the treaty with Germany. It appears to be a supplemental agreement which the President himself says he was not going to transmit here until after the treaty was ratified.

That is all I care to say about this matter, Mr. President, except——

Mr. ROBINSON. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Connecticut yield to the Senator from Arkansas?

Mr. BRANDEGEE. Yes.

Mr. ROBINSON. The matter which the Senator has asked to be printed has already been printed as a document and has just come down. It is Document No. 231.

Mr. BRANDEGEE. It has just been handed to me, I will say to the Senator, and I should like to have it read by the Secretary for the information of the Senate.

Mr. ROBINSON. I myself should be very glad to have that done.

Mr. BRANDEGEE. The message was not read yesterday, and, if there is no objection, I should like to have the message read with the agreement.

The PRESIDENT pro tempore. Without objection, the Secretary will read as requested.

The Assistant Secretary read as follows:

To the Senate:

I have the honor to acknowledge the receipt of a resolution passed by the Senate on February 14, requesting the President to inform that body "whether any, and if so, what, agreement or understanding exists between him and officials of Great Britain concerning the disposition by the United States of America of the German ships which the Shipping Board is proposing to sell, or which were acquired by the United States after the termination of hostilities between said United States and the Central European Teutonic powers."

The ships for the purchase of which bids have been asked by the Shipping Board were taken over by Executive orders issued pursuant to the joint resolution of Congress of May 12, 1917, authorizing the President to take over for the United States the possession and title of any vessel within its jurisdiction, under enemy ownership or under the registry of an enemy country. The Government of the United States is not in possession of any ex-German vessels except those taken over under this resolution. Under an armistice agreement between the German Government and the allied and associated powers certain German vessels were taken over primarily for the transport of food to Europe, including Germany, and for the transportation of troops. Of the tonnage so taken over, certain passenger vessels were allocated to the United States temporarily for the purpose of repatriating American soldiers. When the transportation of our troops was completed, these vessels were all surrendered in accordance with the agreement under which they were temporarily allocated to this Government for such use.

There is not, nor has there been, any agreement or understanding between the President of the United States and officials of Great Britain concerning the sale of the ex-German vessels in possession of the United States, nor is there any agreement or understanding with respect to what disposition shall be made of those ships by the United States.

I believe the above information fully answers the Senate's inquiry. However, I am transmitting herewith a draft of a proposed understanding in regard to ex-enemy merchant tonnage to which I have given assent, subject to future action of Congress as provided therein. Although this understanding, which recognizes American rights with regard to German vessels taken in our ports, does not relate to the disposition of such vessels by the United States, I am, nevertheless, transmitting it in order that the Senate may be in possession of all the information there is in any way relating to the vessels in question. I had intended to submit this to Congress at the appropriate time, after the ratification of the treaty with Germany.

WOODROW WILSON.

THE WHITE HOUSE,
February 20, 1920.

"The allied and associated Governments whose signatures are hereto affixed, severally agree as regards merchant shipping as follows:

"1. The reparation commission will, as soon as possible, compile a list giving fullest particulars available on all enemy ships still in existence, captured, seized, or detained by any allied or associated Government during the war, and also all other enemy ships or boats which the enemy powers are required to cede under the treaty of peace.

"2. The reparation commission will taks such steps as will secure that each of the allied and associated Governments will retain as its own the complete title to and use of all ships captured, seized, or detained during the war as a war measure and prior to November 11, 1918, and will own the same free from any claim of any of the other allied or associated Governments.

"In all cases where the ships and boats so to be retained by any allied or associated Government are in excess of the claims of such Governments, respectively, for war losses in merchant ships, such Governments shall not make any claim for a share in other ships and boats ceded under the treaty of peace.

"3. In all cases where the ships and boats so to be retained by any such Governments are insufficient to satisfy in full the claims of such Governments, respectively, for war losses in merchant ships, the enemy ships which remain and which are to be ceded under the treaty of peace will be divided into three classes, viz, liners, other merchant ships, and fishing boats, and will be distributed to such Governments on the basis of ton for ton and class for class of the ships and boats lost and not replaced by the ships and boats retained, but in proportion to the balances due on the claims of such Governments, respectively.

"4. As the ships and boats so to be retained will, in the case of Brazil, China, Cuba, Siam, and the United States, exceed the total amount of tonnage which would be allocated to those countries were the total enemy tonnage captured, seized, detained, or still in existence shared in proportion to losses of ships and boats during the war, in each such case a reasonable value on the excess of ships and boats over the amount which would result from such a division will be determined. The amount of the value so fixed will be paid over by each such State to the reparation commission for the credit of Germany toward the sums due from her for reparation, in respect to war losses of merchant ships.

"5. As soon as the reparation commission has collected the necessary information, and is in a position so to do, they will give public notice that after an interval of two months they will proceed to divide the vessels except those captured, seized, or detained by the allied and associated Governments which are to be retained by them, respectively, as hereinbefore provided. If within one month of the publication of the notice any allied, associated, or neutral Government, person or corporation a national of such Government and acting through such Government, notifies the commission that they have an equitable claim against any vessel which has not been, or is not being, satisfied by the enemy Governments, that claim will be considered on its merits by the commission, which may adopt any procedure it thinks fit, provided it is expeditious and is calculated to do substantial justice as between the allied and associated Governments on the one hand and the claimant on the other.

"The commission will have power to determine claims so presented, and such determination will be conclusive, and the commission will also have power to enforce its findings.

"Dated May —, 1919.

"WOODROW WILSON
"(Subject to the explanation contained in the attached memorandum).
"D. LLOYD-GEORGE.

"I deem it my duty to state, in signing this document, that, while I feel confident that the Congress of the United States will make the disposal of the funds mentioned in clause 4 which is there agreed upon, I have no authority to bind it to that action, but must depend upon its taking the same view of the matter that is taken by the joint signatories of this agreement."

PETITIONS AND MEMORIALS.

Mr. WARREN presented a resolution adopted by the Wyoming Wool Growers' Association, at Cheyenne, Wyo., favoring increased appropriation of funds for the United States Sheep Experiment Station in Fremont County, Idaho, which was referred to the Committee on Agriculture and Forestry.

Mr. PHELAN presented a petition of the California State Board of Forestry, praying for the enactment of legislation providing for an airplane patrol of the western forests, which was referred to the Committee on Public Lands.

He also presented a petition of the Women's Democratic Club, of Alameda County, Calif., praying for the enactment of legislation giving rank to Army nurses, which was referred to the Committee on Military Affairs.

Mr. HALE presented a petition of sundry postal employees of Ellsworth, Me., praying for the enactment of legislation granting annual and sick leave to regular postal employees, which was referred to the Committee on Post Offices and Post Roads.

FEDERAL TRADE COMMISSION.

Mr. WALSH of Montana. Mr. President, some time ago, upon the motion of the Senator from Indiana [Mr. WATSON], the Senate adopted a resolution inquiring into the character of the employees of the Federal Trade Commission. A clause was appended to the resolution reading as follows:

> The committee is further directed to inquire generally into the work of the commission, the procedure it has adopted, the authority it has exercised, its attitude toward the business of the country, and make report respecting the value of the commission as a governmental agency.

The duty of investigating was intrusted by the resolution to the Committee on Interstate Commerce. That committee apparently appointed a subcommittee to conduct the investigation, and I have here a questionnaire prepared by the committee and submitted to every individual or corporation against whom any complaint has been lodged by the Federal Trade Commission. The questionnaire is so extraordinary in its character that I desire to invite the attention of the Senate to it. It reads as follows:

> UNITED STATES SENATE,
> COMMITTEE ON INTERSTATE COMMERCE,
> *January 30, 1920.*
>
> GENTLEMEN: The United States Senate by resolution has directed a subcommittee of the Committee on Interstate Commerce to inquire generally into—
>
> The work of the Federal Trade Commission;
> The procedure it has adopted;
> The authority it has exercised; and
> Its attitude toward the business of the country;
>
> and to make report respecting the value of the commission as a governmental agency.
>
> As a firm which has had a complaint filed against it by the commission (either pending or disposed of), a statement is desired from you on any and all points you desire to make, included in the scope of the inquiry as indicated above.
>
> It is desired particularly to ascertain:
>
> 1. If complaint is pending or disposed of.
> 2. How long the complaint was (or has been) pending.
> 3. What kind of hearings were given, where was hearing held, and did you have ample opportunity to present your case.
> 4. If complaint against you was dismissed, what was the reason therefor.
> 5. If a decision or finding has been made, was it made as a "consent order" or not, and were the facts "stipulated" by agreement or stated by the commission?
> 6. If a "consent order" was entered, did it actually affect your acts or was it entered "to save the face of the commission"?
> 7. Was the finding of the commission (if one has been made) an equitable one? If not, in what respect do you consider the commission has erred?
> 8. If you consider that complaint against you was unwarranted, what do you believe was the reason that the complaint was filed by the commission?
> 9. If finding was made, have you appealed or do you intend to appeal for a judicial review of the same?
> 10. Do you have any information tending to establish the fact that the Federal Trade Commission has used its power to aid private enterprises in an unwarranted manner? If so, what are the facts and what are the connections, political or otherwise, between the firm so favored and the commission or any member or employee thereof.
> 11. Has the attitude of the Federal Trade Commission on your case been helpful or prejudicial to the business of the country? In your answer please explain why and how.
> 12. Please express your opinion on the value of the commission as a governmental agency, and the reason for your opinion.
> 13. If you believe that the work of the commission could be better handled by some other governmental agency or by reformation of its own procedure or policy, please indicate definitely your suggestions for the change or the improvement.
> 14. Give file number of complaint in your answer.
>
> As the committee will begin its hearings within a few days, it is urgently requested that you, with the aid of your attorneys, prepare and forward an answer to this letter at the earliest possible moment.
>
> Please be perfectly frank in the information which you give to the committee. Any information which you desire to give in confidence will be so treated.
>
> A large part of the information asked for herein is of record with the Federal Trade Commission, but time is not available to digest completely all of the record in every case. Evidence suggested by you will not be treated as volunteered, but the facts will be established by the records of the commission or by witnesses duly subpœnaed.
>
> Respectfully, yours,
>
> CHARLES E. TOWNSEND,
> *Chairman Subcommittee.*

Mr. NORRIS. Mr. President, may I interrupt the Senator?

Mr. WALSH of Montana. I yield to the Senator.

Mr. NORRIS. Did the Senator read the resolution that gave authority from the Senate for this investigation?

Mr. WALSH of Montana. I read that part of it which is pertinent to this matter.

Mr. NORRIS. As I remember the resolution, there was not anything in it that was pertinent to any of those questions. I supposed it was confined only to investigating whether or not they had Socialists, and so forth, among their employees.

Mr. WALSH of Montana. The Senator evidently overlooked the concluding paragraph, which reads as follows:

> The committee is further directed to inquire generally into the work of the commission, the procedure it has adopted, the authority it has exercised, its attitude toward the business of the country, and make report respecting the value of the commission as a governmental agency.

Mr. NORRIS. Oh, yes.

Mr. WALSH of Montana. I do not think the committee is going beyond the scope of its power at all in prosecuting an inquiry of this kind. What I wish to invite your attention to, however, is that it is making this inquiry concerning all of these matters of the people against whom complaints have been filed by some competitors in their business and who have been made the subject of inquiry by the commission as to the propriety and character of the methods which they pursue in the prosecution of their business, for the purpose of determining whether those methods are unfair within the statute.

Mr. NORRIS. Mr. President——

Mr. WALSH of Montana. I yield.

Mr. NORRIS. It strikes me that it would be similar to providing for the trial of a judge before a jury composed of criminals whom he had sentenced in his court.

Mr. WALSH of Montana. I was going to say, in that connection, that I am not to be understood as indicating that in my judgment the offenses contemplated by the statute creating the Federal Trade Commission involve grave moral turpitude. Of course, if they did, they would be made penal offenses. But, Mr. President, the situation would be quite analogous if one went to the penitentiary to get the views of those incarcerated there touching the law, the jury, and the court through the action of which they happened to be confined.

> No man e'er felt the halter draw,
> With good opinion of the law.

The wail that in all probability will be set up by those who have thus been made the objects of inquiry by the commission can be very readily imagined. I can not see what particular value could attach to any observations that these gentlemen might make by way of criticism of the commission, or of the law, or of the treatment which they got.

Mr. TOWNSEND. Mr. President——

Mr. WALSH of Montana. I yield.

Mr. TOWNSEND. Will the Senator yield for me to say a word there, as I am holding hearings before another committee and have a witness on the stand?

Mr. WALSH of Montana. Certainly.

Mr. TOWNSEND. I have just learned that the Senator is criticising certain questionnaires that were sent out by the committee which was authorized to investigate the Federal Trade Commission. I have not learned before that even the commission was taking any exception to what we are doing. I endeavored to see to it that those papers were prepared in such a manner as to get the opinion of the people of the United States who had had to do with the commission or with whom the commission had had to do. I asked for frank statements under all pertinent heads which I thought would bring about a basis for investigation on the part of the commission. The Senator is quite mistaken if he believes that we are receiving wails from those who have been prosecuted. We are receiving their opinions in many cases, and many of them are very complimentary to the commission.

Mr. WALSH of Montana. Yes; I shall put some of those in the RECORD.

Mr. TOWNSEND. I have sent to every organization in this country that has come to my attention which has passed resolutions condemning the Federal Trade Commission, including the United States Chamber of Commerce, and have insisted that they must give us their reasons, the basis for those condemnations. These are solely for the use of the committee in establishing a method of procedure under the comprehensive resolution which was adopted. If the Senator has put into the RECORD that resolution and the amendment offered by the Senator from Iowa [Mr. CUMMINS], which was to investigate all of the activities of the Federal Trade Commission, and if he can think of any more proper method of procedure than we have adopted—because we have not only written to the people who have been investigated, against whom complaint has been made, but we have written to every man or every concern that has come to our attention that has had knowledge of the workings of the Federal Trade Commission—I shall be glad to have him

suggest it. That does not mean that the committee is limited to these reports or that it accepts what has been said to it, but we want to know what the complaints are that have been made in order that we can properly investigate them.

Mr. WALSH of Montana. Mr. President, I have permitted an interruption because the Senator has advised us that he is due at some other committee with which he is at work; but I interrupt the Senator to inquire whether he has submitted a similar questionnaire to those rivals of the corporations or companies or firms to whom these questionnaires have been sent, and if he will furnish us with a copy of the questionnaire addressed to the complainants upon whose complaint the proceedings were instituted?

Mr. TOWNSEND. In every case where we could get the information as to who was interested in these matters we have asked for this information, and we are asking for it and other information every day.

Mr. WALSH of Montana. The Senator has misunderstood me. I am inquiring of the Senator if he has addressed a similar questionnaire to those parties upon whose complaint the proceedings were instituted, as well as the parties against whom the proceedings were addressed?

Mr. TOWNSEND. I do not know that I have sent out any general letter on that subject, but I can assure the Senator that we will send out letters and are sending them out to every business concern in this country which has been interested in the proceedings of the Federal Trade Commission. I think every Democratic Member, as well as those Members on this side of the Chamber, will agree that this committee are not starting out on a persecuting proposition. The commission understand that as well as I do. What we want to do is to get at the facts. We are not making public the letters which have been submitted to us. We are simply collecting the data that we believe will be useful to us in making the investigation.

Mr. WALSH of Montana. Mr. President, in all of these proceedings, as in other proceedings before courts or tribunals, there is a party corresponding to a complainant or plaintiff and a party corresponding to a defendant. The complainant in the proceedings before the commission, ordinarily being a rival in business, charges that the party accused has resorted to unfair practices in the prosecution of his business destructive of the trade of the complainant, and he asks the interposition and the exercise of the power of the Federal Trade Commission to arrest those practices and to put a stop to them. It is quite evident that the questionnaire has been addressed in every case to him who stands in the attitude of the defendant, and never——

Mr. TOWNSEND. The Senator is entirely mistaken about that.

Mr. WALSH of Montana. Wait a minute until I get through with the statement—and that no corresponding questionnaire has been addressed to those who stand in the attitude of the plaintiff or the complainant.

Mr. TOWNSEND. We have not as yet reached that class, but if the Senator will withhold his criticism until the committee gets to work, it will be more timely and may be more just. He should understand this: The chairman of the committee has been in touch with the Federal Trade Commission, and I do not think it believes that I am working or that any other member of the committee is working through any unfair means to the commission. I am satisfied that they do not. Perhaps the Senator has information which I do not possess, but I have told them frankly what I was trying to do, and have consented that they should cooperate, that their counsel should be present at all hearings, and I informed them that I wanted their advice as how best to proceed to get the facts in this case. We have not yet actively reached the second branch of it. We are simply trying to get some information upon which we can establish an orderly procedure.

Mr. WALSH of Montana. I am giving the Senate my own view about this matter; and my own view about it is that if a questionnaire of this character was sent out at all, it ought to be sent out at the same time to both parties to the controversy. My own judgment about the matter is that in neither case will one be very much enlightened by the answers which are received, because, of course, the prevailing party will be profoundly impressed with the wisdom and propriety of the action of the commission, while the losing party will ordinarily be in a condemnatory mood.

Mr. TOWNSEND. I trust the Senator will have a little confidence in the committee and believe it has sufficient intelligence to digest and weigh the information which comes to it; and I can assure him that if a case is presented or a letter is presented to us by one of these people complained against, and the case is established so that we can understand what it is, we shall proceed further to determine the other side of that case.

Mr. WALSH of Montana. Of course, I have no doubt that the committee now will proceed to inquire into the other side.

Mr. TOWNSEND. Oh, well, the Senator has not influenced the commission in the least. What he has said has had no effect upon the committee, because it established that policy to proceed upon when it first met. He has not influenced it.

Mr. WALSH of Montana. I do not care to engage in any controversy with the Senator. I am calling attention to the fact that this set of questions was propounded to the defendants and nothing corresponding was addressed to the other side.

I wish to inquire of the Senator if he will have the kindness to tell us exactly what this question No. 6 means:

If a "consent order" was entered, did it actually affect your acts or was it entered "to save the face of the commission"?

Mr. TOWNSEND. That questionnaire was put out for the purpose of determining just exactly what were the facts in the case. I did not remember that the words "to save the face of the commission" were included. Is that language in the questionnaire?

Mr. WALSH of Montana. I read it from the questionnaire.

Mr. TOWNSEND. I confess I did not notice those particular words. I think they should not have been used.

Mr. WALSH of Montana. It occurs to me that the question is rather leading. A leading question is one which suggests the answer which the interrogator hopes will be given to it, and it occurred to me that this quite clearly indicated the hope of the propounder that the one to whom it was addressed would answer that the consent was entered into merely to save the face of the commission. Would not that suggest itself to the Senator?

Mr. TOWNSEND. I am perfectly willing to admit that it might have that inference, but there was no such thought in my mind, and while I intended to read over the papers which were stamped with my signature I did not observe that specific language.

Mr. WALSH of Montana. The fact is——

Mr. TOWNSEND. But I have read the answers which I have received, and I am receiving hundreds of them. I am perfectly satisfied that the answers which come to us from various people to whom we have sent these letters are going to be of great service to the committee.

Mr. WALSH of Montana. It will not be surprising if these answers are generally characterized as I have indicated.

We were told some time ago by the senior Senator from Pennsylvania [Mr. PENROSE] that he had had numberless complaints about the action of the Federal Trade Commission, some of them couched in language that would not be fit to be introduced into the RECORD. I thought at the time that that was some evidence at least that the Federal Trade Commission was functioning, as those responsible for the passage of the law expected it would. I have no doubt that quite a large number of firms in the State of the Senator from Pennsylvania have become the object of the investigations conducted by the Federal Trade Commission. Indeed, I have a copy of its last annual report before me giving a list of all the proceedings that were instituted and those that had been disposed of. The first in that long list is the case of the Federal Trade Commission against the Curtis Publishing Co., whose principal place of business is, I understand, in the city of Philadelphia, in the State of Pennsylvania.

It is charged with "stifling and suppressing competition by refusal to sell its publications to dealers who will not agree not to sell or distribute the publications of certain of its competitors, in alleged violation of section 5 of the Federal Trade Commission act, and, further, attempting to create a monopoly by means of price fixing conditioned on the nonsale of competitors' publications, in alleged violation of section 3 of the Clayton Act." The disposition of that case is not reported in the annual report of the Federal Trade Commission, but I have before me the record in the case, showing that the commission found the charges to be sustained, and an order went out commanding and directing the Curtis Publishing Co. to desist from the practices complained of.

It will be remembered that the Curtis Publishing Co. is the publisher of the Saturday Evening Post, the Ladies' Home Journal, and the Country Gentleman. These are highly popular periodicals; they are found upon every bookstand and in every bookstore in the country. The publishers have forced upon their agents a contract under which they agree not to sell or put out the periodicals of any competing publisher, the agreement being aimed particularly at the publishers of the Pictorial

Review and the Crowell Publishing Co. I read from the findings of the commission in that case as follows:

PAR. 2. That the respondent, the Curtis Publishing Co., for several months last past, in the course of interstate commerce, has sold and made contracts for sale, and is now selling and making contracts for sale, of large supplies of its publications and periodicals for use and resale within the United States and the Territories thereof and the District of Columbia, and has fixed, and is now fixing, the price charged therefor on the condition, agreement, or understanding that the purchasers thereof shall not use or deal in the publications or periodicals of a competitor or competitors of respondent, and that the effect of such sales and contracts for sale, on such conditions, agreements, or understandings, may be and is to substantially lessen competition and to tend to create a monopoly.

The contracts put out by the Curtis Publishing Co. to their agents obligating them not to deal in or handle the Pictorial Review or any of the publications of the Crowell Publishing Co. are set forth in the record.

I have no doubt that the answer of the Curtis Publishing Co. to the questionnaire addressed to them by the Interstate Commerce Committee will not be particularly laudatory of the action of the Federal Trade Commission. Of course, it has its redress if its rights have been invaded in any respect. It has filed its petition in the proper court—the district court for the eastern district of Pennsylvania—to enjoin the commission from carrying out the order made against them, and the validity of it will in due course be determined in that proceeding.

Mr. KENYON. Mr. President——

Mr. WALSH of Montana. I yield to the Senator from Iowa.

Mr. KENYON. I am interested in learning if the Senator from Montana knows whether a questionnaire has been sent to the packers and what response they have made.

Mr. WALSH of Montana. No; but the packers have been made the subject of inquiry by the commission, and as these questionnaires were sent to everyone, as I understand, who has thus been made the subject of proceedings before the commission, I assume as a matter of course that the packers have received the questionnaire. I doubt not that their feelings concerning the Federal Trade Commission generally and its procedure will scarcely be complimentary. Whether their opinion under the circumstances will be of any value to the committee or the public is another question.

Happily, as we are informed by the chairman of the subcommittee, not all the answers to the questionnaires will be condemnatory in character. The fact of the matter is that many firms engaged in business have been obliged to resort to questionable practices in order to meet competition of that character by their rivals, and it was for the purpose of relieving the men who are desirous of doing business upon just lines and according to honest principles that the act was passed, as well to bring to bay those who were inspired by a desire to carry on their business along lines that could not be approved. These men, as well as everybody else engaged in their particular line of business, are glad to have been made the subject of these proceedings before the Federal Trade Commission, because they are all now enjoined, every one of them, from proceeding to carry out the practices which many of them condemn.

This answer was made by one of the defendants to the questionnaire to which I have called the attention of the Senate:

LOUISVILLE VARNISH CO.,
Louisville, February 16, 1920.

Senator CHARLES E. TOWNSEND,
Chairman Subcommittee Committee on Interstate Commerce,
Washington, D. C.

DEAR SIR: Your letter of January 30, regarding the work of the Federal Trade Commission, was received a few days ago.

It gives us a great deal of pleasure to state that the manner in which the complaint against our company was handled by the Federal Trade Commission was most satisfactory in every respect, and without their assistance we would never have been able to change the questionable customs which had existed in our trade for so many years.

It is my idea that every one of the fifty-odd defendants who were joined with us in this complaint are of the same opinion.

Yours, very truly,

P. H. CALLAHAN, *President.*

Mr. President, no one can read No. 6 of the questionnaire, to which I have called attention, and believe that it was conceived in any spirit of friendliness to the action of the commission. Indeed, I must say that I was astounded when I saw the name of the Senator from Michigan [Mr. TOWNSEND] appended to it. I had always regarded him as an eminently fair and eminently just man, and the consternation which he exhibited when his attention was called specifically to question No. 6 confirms the opinion I formed at once on seeing it, that he had intrusted the preparation of the questionnaire to some clerk and had not had an opportunity to supervise the work himself.

Mr. KENYON. Will the Senator read that question again? There was so much confusion in the Chamber at the time that I could not hear it clearly.

Mr. WALSH of Montana. No. 6 reads:

If a "consent order" was entered, did it actually affect your acts or was it entered "to save the face of the commission"?

Mr. JONES of Washington. Mr. President, I do not desire to divert the Senator nor to take him off the floor by a call for the regular order, but I have to leave the Chamber in a moment or two, and I desire to present two reports.

Mr. WALSH of Montana. The Senator need not apologize. I am through.

Mr. JONES of Washington. Has the Senator from Montana concluded?

Mr. WALSH of Montana. I have concluded.

SALE OF SHIPS.

Mr. JONES of Washington. From the Committee on Commerce I report back favorably with amendments the bill (S. 3928) relating to the ships acquired from Germany, and for other purposes, and I submit a report (No. 430) thereon.

I had intended to ask unanimous consent for the consideration of the bill to-day, but in view of the message from the President of the United States and the facts disclosed, I think I will not ask for its consideration to-day and probably not before the middle of next week.

If this country must turn over any surplus that it gets for the ships, over and above the submarine losses during the war, there is no special inducement why we should make special efforts to get anything more than a fair, bona fide price of the ships. I desire to look into that proposition very carefully, and I know that other Senators would like to do so, too. I therefore simply submit the report with the statement that I expect to call it up not before Wednesday of next week.

Mr. FLETCHER. In connection with the proposed understanding, which does not affect the disposition of the ships but simply establishes or recognizes our rights, may I suggest to the Senator that that was all made conditioned on its approval by Congress? So it is wholly a question for Congress to determine.

Mr. JONES of Washington. Yes; I know that, but I thought it was hardly proper to ask unanimous consent for the consideration of the bill before Senators had had an opportunity to look into the matter. I thought probably they would like to look into the report also to get the facts.

Mr. CHAMBERLAIN. Mr. President, as I understood the reading of the message from the President, the more we get for the ships the more we shall have to pay somebody.

Mr. JONES of Washington. We will have to pay for the benefit of Germany.

Mr. CHAMBERLAIN. And the less we get for them, the cheaper it will be for America?

Mr. JONES of Washington. That is true.

Mr. CHAMBERLAIN. That is the way it sounds.

Mr. JONES of Washington. That is the way it looks to me.

Mr. FLETCHER. That is, if Congress so orders.

The PRESIDENT pro tempore. The bill will be placed on the calendar.

NATIONAL MARINE EXPOSITION.

Mr. JONES of Washington. From the Committee on Commerce I report back favorably without amendment the joint resolution (S. J. Res. 148) authorizing the Department of Commerce to participate in the National Marine Exposition to be held in New York in April, 1920, and I submit a report (No. 431) thereon.

I desire to state that there is an express provision that this shall not involve any expense upon the part of the United States. It authorizes the Secretary of Commerce to allow the use of such ships as he may deem proper and helpful in connection with the marine exposition.

Mr. SMOOT. Does the joint resolution specifically provide that there shall be no expense?

Mr. JONES of Washington. It does.

Mr. SMOOT. Many times in the past that proviso has been inserted in just such resolutions, and still appropriations have been made for expenses. I desire the Senator now to state, as he has already stated, that if the joint resolution passes there will be no appropriation asked for in the future.

Mr. JONES of Washington. I will certainly oppose any request for an appropriation.

Mr. KING. Mr. President, let the joint resolution be reported.

The PRESIDENT pro tempore. The Secretary will read the joint resolution.

The joint resolution (S. J. Res. 148) was read, as follows:

Whereas the National Marine League of the United States is to hold an exposition in New York next April for the purpose of demonstrating to the public the needs of the maritime industries of the United States and the means by which the interests of such maritime industries may be encouraged and promoted; and

Whereas it is believed that participation by the Department of Commerce in such exposition may tend to promote, develop, and foster the foreign and domestic commerce of the United States: Therefore be it

Resolved, etc., That the Secretary of Commerce be authorized, in his discretion, to cooperate with the managers of such exposition and to furnish such exhibits from the various bureaus and branches in his department as, in his judgment, may be of value in the performance of the functions of the department: *Provided*, That such cooperation and the furnishing of such exhibits shall be without expense to the United States.

The PRESIDENT pro tempore. Is there objection to the present consideration of the joint resolution?

There being no objection, the joint resolution was considered as in Committee of the Whole.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

PROTECTION OF TRADE-MARKS.

Mr. BRANDEGEE. From the Committee on Patents I report back favorably with amendments the bill (H. R. 9023) to give effect to certain provisions of the convention for the protection of trade-marks and commercial names, made and signed in the city of Buenos Aires, in the Argentine Republic, August 20, 1910, and for other purposes.

I ask unanimous consent for the present consideration of the bill. I will explain it very briefly. If it causes any debate, I shall not attempt to take up the time of the Senate. It is a bill which passed the House and has the unanimous report of the Committee on Patents.

Mr. SMOOT. I should like to have the bill explained.

Mr. BRANDEGEE. Does the Senator desire me to explain it now or does he wish to have it read first?

Mr. SMOOT. Let it be read in full. That may explain it sufficiently.

The bill was read.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

Mr. FLETCHER. I desire to ask the Senator from Connecticut a question. I recall that I introduced a bill—I did not prepare it, but it was recommended by the department—at the last session, and I had it referred to the Committee on Commerce. That committee, after quite extensive hearings, reported the bill favorably, and the Commissioner of Patents finally agreed to the bill as it was reported. As I recall, the bill was passed by the Senate. I should like to ask the Senator from Connecticut if this bill conforms to the bill which was favorably acted on by the Senate at the last session?

Mr. BRANDEGEE. Mr. President, the Senator from Florida introduced in the Sixty-fifth Congress, second session, Senate bill 4889. It was then Calendar No. 508. The bill was favorably reported, under date of August 29, 1918, and it was passed by the Senate. The Nolan bill, so called, which the Secretary has just read to the Senate, is a duplicate of the bill which the Senator from Florida introduced and which the Senate heretofore passed. The House of Representatives, however, did not pass the bill during that Congress. It was on the calendar, favorably reported, but in the House there was not time for consideration, and the bill could not be brought up. The House has this year passed a duplicate of the bill which the Senate passed a year or two ago. I shall not make any request in reference to the printing of the report on the bill until I see whether or not the Senator from Utah [Mr. SMOOT] wants to ask any further question about it. The situation is that a similar bill has been passed by both branches of Congress. In the last Congress it was passed by the Senate, recommended favorably by the House committee, and was placed on the House Calendar. In this Congress it has been passed by the House.

Mr. SMOOT. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Connecticut yield to the Senator from Utah?

Mr. BRANDEGEE. I yield.

Mr. SMOOT. I will say to the Senator that I have read the report and also the bill, and as nearly as I can follow them it is exactly similar to the bill referred to by the Senator from Florida [Mr. FLETCHER]. I have no objection to the passage of the bill at this time.

Mr. KING. Mr. President, I should like to ask the Senator from Connecticut a question.

The PRESIDENT pro tempore. Does the Senator from Connecticut yield to the junior Senator from Utah?

Mr. BRANDEGEE. Certainly.

Mr. KING. I desire the Senator from Connecticut to explain wherein the bill differs from existing law, and whether exigencies have arisen, aside from such as might have been produced by reason of the international convention, that would call for such an elaborate measure as this.

Mr. BRANDEGEE. Mr. President, the bill is the result of hearings before the Committee on Commerce and the Committee on Patents in the Senate and the Committee on Patents in the House of Representatives. I have not gone into it exhaustively, as to the changes it proposes in existing law, because the bill has been passed by both branches of Congress. The meeting of the Senate committee on the bill was attended by the Senator from Pennsylvania [Mr. KNOX] and the Senator from Minnesota [Mr. KELLOGG]; and Representative MERRITT, of the House of Representatives, appeared before the committee and explained the bill. The bill had received the approval of the Commissioner of Patents, and, I am free to say, that except that it is to enforce an international convention, I assume it is not so much a change in the existing law as a new provision of law. I was going to ask, Mr. President, that House report No. 411 may be printed in the RECORD, unless the Senator from Utah desires that it shall be read.

Mr. KING. No.

Mr. BRANDEGEE. And that House report No. 1090, Sixty-fifth Congress, third session, be also printed in the RECORD. Report No. 411 contains a letter from the junior Senator from Virginia [Mr. GLASS], who was at the time it was written the Secretary of the Treasury, fully endorsing the bill.

The PRESIDENT pro tempore. In the absence of objection, the reports referred to by the Senator from Connecticut will be printed in the RECORD.

The reports are as follows:

[House Report No. 411, Sixty-sixth Congress, first session.]

The Committee on Patents, to which was referred H. R. 9023, a bill to give effect to certain provisions of the convention for the protection of trade-marks and commercial names, made and signed in the city of Buenos Aires, in the Argentine Republic, August 20, 1910, and for other purposes, reports the bill to the House with a recommendation that the bill do pass.

Hearings were held on this measure on October 15, at which time there appeared before the committee Hon. James T. Newton, United States Commissioner of Patents; Mr. C. E. McGuire, assistant secretary general, International High Commission; Mr. Thomas P. Robinson, representing the American Patent Law Association; and Mr. Chauncey P. Carter, Washington, D. C., all urging the passage of this bill.

The purpose of this legislation is to give effect between the convention of the United States and the Central and South American States and Cuba for the protection of trade-marks. This convention was signed in Buenos Aires August 20, 1910, and ratified by the Senate February 8, 1911.

An international bureau which will act for the northern States of South America and for the United States has been established in Habana, pursuant to the convention, but is unable to deal with the United States in the absence of specific statute giving the requisite authority to the Commissioner of Patents. South American States which subscribed to the convention are awaiting action by Congress on the pending bill.

A statement from the Secretary of the Treasury, Hon. Carter Glass, concerning the convention and its purposes is herewith attached:

TREASURY DEPARTMENT,
Washington, October 14, 1919.

Hon. JOHN I. NOLAN,
House of Representatives, Washington, D. C.

MY DEAR MR. CHAIRMAN: I understand that the Committee on Patents is about to consider House bill 9023, permitting the Commissioner of Patents to open a register for marks transmitted by the International Trade-Mark Registration Bureau at Habana as duly registered there. I trust that the committee will see its way clear to recommend the passage of this bill, which will enable the Commissioner of Patents to record in the appropriate way and with proper legal sanction the receipt of the official notice from Habana that marks there deposited have been given the full effect of the international convention.

The International Trade-Mark Registration Bureau has already begun actively to function, and we have every reason to believe that it will render genuine and substantial purpose to the manufacturers and exporters of the United States.

No hesitancy has been observed on our part in appropriating the quota of the United States toward the expense of the bureau in its initial year, and we ought not, therefore, to refrain from taking any other steps necessary to give full effect to the convention. In future years the bureau will be practically self-supporting and will be a source of satisfaction to all of those interested in closer commercial and financial relations between the American Republics.

I am, my dear Mr. Chairman,
Yours, sincerely, CARTER GLASS, *Secretary.*

The Committee on Patents reports the bill unanimously with a favorable recommendation for its passage.

This country will have failed to carry out its part of the convention unless this legislation is enacted.

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[House Report No. 1090, Sixty-fifth Congress, third session.]

The Committee on Patents, to whom was referred Senate bill 4889, reports the bill back to the House with a recommendation that the bill do pass.

The purpose of this legislation is to give effect to the convention between the United States and South American States for the protection of trade-marks. This convention was signed in Buenos Aires August 20, 1910, and ratified by the United States Senate February 8, 1911.

An international bureau which will act for the northern States of South America and for the United States has been established in

Habana, pursuant to the convention, but is unable to deal with the United States in the absence of specific statute giving the requisite authority to the Commissioner of Patents. South American States which subscribed to the convention are awaiting action by Congress on the pending bill.

A statement from the Treasury Department concerning the convention and its purposes is as follows:

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, July 2, 1918.

MY DEAR SENATOR FLETCHER: I learn with much pleasure of the introduction of a bill seeking to execute the convention concerning trade-marks signed at Buenos Aires on August 20, 1910, and ratified by the United States in the following session of Congress. The fundamental principle of the protection of prior use rather than of mere formal priority of registration is assured to the merchants and manufacturers of those Republics of America that have ratified this convention. It is to be hoped that in a relatively short time all the Republics will have so acted; to date the convention has been ratified by the United States, Cuba, Dominican Republic, Guatemala, Honduras, Nicaragua, Panama, Costa Rica, Brazil, Ecuador, Paraguay, and Bolivia.

After a number of attempts the American Republics arrived at a simple but effective statement of this principle in the convention adopted in 1910. The convention provides for two international trade-mark registration bureaus—one at Habana, which will receive applications for registration from the countries of North and Central America and the West Indies, and one at Rio de Janeiro, which will receive applications for registration from the countries of South America. The two bureaus are intended to exchange each week statements of the applications received and the registrations granted. The regulations concerning the procedure of application and registration will be prepared by two international bureaus with due care and after consultation with the trade-mark registration authorities of the participating countries.

After waiting several years, and in part I think we may fairly say, as a result of the deep interest in the protection of industrial and literary property taken by the International High Commission at its meeting in Buenos Aires in April, 1916, enough ratifications were secured in the northern group of countries to make possible the inauguration of the bureau destined to serve that group. His Excellency the President of Cuba, upon receiving official notice of this fact, was able in December last to establish the International Trade-mark Registration Bureau at Habana, appointing a well-known and competent trade-mark authority of Cuba as the first director general. In the time that has elapsed since his appointment, Dr. Mario Díaz Irízar, director general of the bureau, has vigorously taken steps to be in a position at a very early date to receive applications for registration. The bureau may now count upon a generous appropriation toward its initial expenses made by the Cuban Congress, and, what is more noteworthy, an ample appropriation for the erection of a permanent building upon a site donated by the Cuban Government. The respective quotas of the other countries of the northern group which have ratified the convention for the first year of the operation of the bureau can be readily settled as soon as Dr. Mario Díaz Irízar comes to Washington to consult the Department of State and the Patent Office.

The legislation, the enactment of which is now thought necessary, will enable the Commissioner of Patents fully to carry out the convention in the spirit in which it was formulated at the Fourth International Conference of American States in Buenos Aires in 1910. The power of preliminary examination is essential if the Patent Office is to have the right to refuse to grant registration (so far as the United States is concerned) of trade-marks registered in the international bureau, while provision is necessary for civil suits to prevent the use of false designations of origin, as well as for broader powers of cancellation of registration. The enactment of legislation of the character suggested—the result of long and careful study on the part of technical authorities in this special field—will enable the United States quickly to put into effect so far as depends upon the Government the provisions of the convention of 1910 and thus directly to promote the successful operation of the Habana bureau, in turn stimulating the further ratification of the convention by enough countries of South America to make possible the opening of the bureau at Rio de Janeiro. With that final step the protection of trade-marks and commercial names throughout this hemisphere will be put upon an enduring and effective basis.

I trust, my dear Senator FLETCHER, that your committee will consider this matter favorably, and I beg to remain,

Very sincerely, yours,

L. S. ROWE,
Acting Secretary of the Treasury and Secretary General of the International High Commission.

Hon. DUNCAN U. FLETCHER,
United States Senate, Washington.

The United States will have failed to carry out its part of the convention until legislation is enacted in the direction herein recommended.

The Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Patents with amendments.

Mr. BRANDEGEE. I ask that the amendments reported by the committee may be stated.

The PRESIDENT pro tempore. The Secretary will state the amendments.

The first amendment of the Committee on Patents was, in section 1, page 1, line 4, before the word "all," to insert "(a)"; and, on page 2, at the end of section 1, to add "(b) all other marks not registerable under the act of February 20, 1905, as amended, but which have been in bona fide use for not less than two years in interstate or foreign commerce, or commerce with the Indian tribes by the proprietor thereof, upon or in connection with any goods of such proprietor upon which a fee of $10 has been paid and such formalities as required by the Commissioner of Patents have been complied with," so as to make the section read:

That the Commissioner of Patents shall keep a register of (a) all marks communicated to him by the international bureaus provided for by the convention for the protection of trade-marks and commercial names, made and signed in the city of Buenos Aires, in the Argentine Republic, August 20, 1910, in connection with which the fee of $50 gold for the international registration established by article 2 of that convention has been paid, which register shall show a facsimile of the mark; the name and residence of the registrant; the number, date, and place of the first registration of the mark, including the date on which application for such registration was filed and the term of such registration, a list of goods to which the mark is applied as shown by the registration in the country of origin, and such other data as may be useful concerning the mark; (b) all other marks not registerable under the act of February 20, 1905, as amended, but which have been in bona fide use for not less than two years in interstate or foreign commerce, or commerce with the Indian tribes by the proprietor thereof, upon or in connection with any goods of such proprietor upon which a fee of $10 has been paid and such formalities as required by the Commissioner of Patents have been complied with.

The amendment was agreed to.

The next amendment was, in section 6, page 4, line 2, to strike out "29" and insert in lieu thereof "28 (as to class (b) marks only)," so as to make the section read:

SEC. 6. That the provisions of sections 15, 17, 18, 19, 20, 21, 22, 23, 25, 26, 27, and 28 (as to class (b) marks only) of the act approved February 20, 1905, entitled "An act to authorize the registration of trade-marks used in commerce with foreign nations or among the several States, or with Indian tribes, and to protect the same," as amended to date, are hereby made applicable to marks placed on the register provided for by section 1 of this act.

The amendment was agreed to.

The next amendment was to insert at the end of the bill a new section, as follows:

That section 5 of the trade-mark act of February 20, 1905, being Thirty-third Statutes at Large, page 725, as amended by Thirty-fourth Statutes at Large, page 1251; Thirty-sixth Statutes at Large, page 918; Thirty-seventh Statutes at Large, page 649, is hereby amended by adding the following words thereto: "And if any person or corporation shall have so registered a mark upon the ground of said use of 10 years preceding February 20, 1905, as to certain articles or classes of articles to which said mark shall have been applied for said period, and shall have thereafter and subsequently extended his business so as to include other articles not manufactured by said applicant for 10 years next preceding February 20, 1905, nothing herein shall prevent the registration of said trade-mark in the additional classes to which said new additional articles manufactured by said person or corporation shall apply, after said trade-mark has been used on said article in interstate or foreign commerce or with the Indian tribes for at least two years."

Mr. BRANDEGEE. Mr. President, I wish to say for the information of the junior Senator from Utah [Mr. KING] that the last amendment is a copy of a bill introduced in the other House by Representative MERRITT, and known as House bill 7157, House Calendar No. 141. The House Committee on Patents, the Commissioner of Patents concurring, suggested that if this bill could be placed as an amendment to the Nolan bill, House bill 9023, it would be desirable, and the House conferees would probably agree to it.

The bill now offered as an amendment has been favorably reported by the House Committee on Patents. Its object is this: During the war many of our great manufacturing plants were tremendously enlarged for war orders. There is one company in my State, the Winchester Repeating Arms Co., which employs 20,000 hands now in the city of New Haven. It multiplied its facilities by ten in order to furnish arms for the Government. That plant must go out of business or adapt itself to the condition of peace and must manufacture something else. They have gone into the manufacture of skates and other hardware appliances, mostly sporting goods. The name "Winchester" is trade-marked. There is now no way in which they can protect themselves in foreign countries. They make a skate which is called the "Winchester skate." This bill provides that, if they continue to use that name in foreign countries for two years, they may file their trade-mark on the Winchester skates, as well as on repeating arms. A similar condition has arisen in the case of many other articles.

The situation now is this: Take, for instance, the case of automobiles; a "shark" in Cuba, say, or in some other country, files an application for a trade-mark of the name "Packard," or "Simplex," or "Pierce Arrow," and gets a trade-mark. The result is that none of our automobiles of those names can be exported and landed in those countries under their laws without paying tribute to the shark who has trade-marked the names, although he has done so without the knowledge or consent of the manufacturers of the article. This proposed legislation is designed to correct that evil, so that the manufacturer here may trade-mark the name of his own product if he has used it in foreign commerce for two years. The bill is designed to relieve the situation I have described. Both the House and the Senate committee were unanimously of the opinion that it was a meritorious measure; and we wanted to facilitate the legislation by adding it as an amendment to the pending bill.

Mr. SMOOT. Do I understand the Senator to mean that in all foreign countries a trade-mark is issued without there be-

ing any requirement as to the use of the trade-mark within a given time?

Mr. BRANDEGEE. That is true in some countries, and it was thought if we could get this legislation attached to the pending bill providing for carrying out the convention of Buenos Aires, it would facilitate the protection of our manufacturers. There was no objection voiced to it.

Mr. SMOOT. I do not see why there should be a requirement of two years.

Mr. BRANDEGEE. As to that, the Commissioner of Patents said he thought one year, perhaps, would be enough.

Mr. SMOOT. I think one year would be ample.

Mr. BRANDEGEE. The only reason we did not reduce it to one year was that it would throw the matter into conference, and we were not asked to reduce it from two years to one.

Mr. SMOOT. The committee having reported other amendments which have gone into the bill, an amendment to the amendment, which he has now presented, would not change the situation, for the bill would have to go to conference in any event.

Mr. BRANDEGEE. I should just as lief reduce it to one year.

Mr. SMOOT. I move to strike out "two years" and insert "one year." I can not see why any American manufacturer should be compelled to send his goods into a foreign market for two years before this law applies to his goods.

Mr. BRANDEGEE. Neither can I see why that should be required. It was the opinion of the committee that the period should be reduced to one year, but they thought that an amendment would carry it into conference. As the Senator from Utah has suggested, however, probably the other amendments will take it into conference in any event. So far as I can do so, I accept the amendment striking out the "two years" and inserting "one year."

Mr. FLETCHER. Mr. President, I agree with the Senator from Utah that it is preferable to make the period one year. I do not see the use of any great length of time elapsing, and one year will certainly be ample enough to protect everybody.

The situation is as the Senator from Connecticut has indicated, not with reference to Cuba, because there is an international bureau now established at Habana in pursuance to other legislation and other conventions; but, with reference to Argentina, I am told, as an actual occurrence, that a merchant of Buenos Aires ordered a lot of goods from the United States which are shipped under a trade-mark. Under the laws of Argentina the "shark" to whom the Senator from Connecticut has referred can register that trade-mark even after that order is given and the goods are on the way, and when they arrive he can claim tribute. In one instance such an individual actually undertook to confiscate the American goods because they came under a trade-mark which he had registered and claimed as his own. This provision will obviate that sort of thing.

Mr. SMOOT. It is claimed there was an infringement upon his trade-mark.

Mr. FLETCHER. That is the claim made. I think this is very important legislation. I hope it will be enacted and that the amendment of the Senator from Utah will be agreed to, for I think it allows ample time for the use of the trade-mark.

Mr. BRANDEGEE. So far as I can I accept the amendment to the amendment.

The PRESIDENT pro tempore. The amendment to the amendment will be stated.

The READING CLERK. In the amendment reported by the committee to add a new section, to be known as section 9, it is proposd to strike out the last two words of the section, "two years," and insert the words "one year."

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

CIVILIAN EMPLOYEES AT LANGLEY, VA.

Mr. NEW. Mr. President, I ask unanimous consent for the present consideration of Calendar No. 371, being the bill (S. 3516) to authorize the Secretary of War, in his discretion, to furnish quarters at Langley Field, Va., to the civilian employees of the National Advisory Committee for Aeronautics, and for other purposes.

I think it will cause no discussion whatever. It is a very simple matter. If it causes any debate, I will withdraw the request.

Mr. FLETCHER. I suggest to the Senator that we finish the regular order. We are now, as I understand, under the head of reports of committees, and then will come the introduction of bills. It will take but a little while for us to finish that order, and then we will see about the motion of the Senator from Indiana. I shall object until we get through with the morning's business.

Mr. NEW. Of course, if there is objection, I withdraw the request.

The PRESIDING OFFICER (Mr. SHEPPARD in the chair). Objection is made.

ORDER OF BUSINESS.

Mr. HARRISON. I submit a resolution which I desire to have read, and I ask unanimous consent for its consideration.

Mr. FLETCHER. Mr. President——

Mr. HARRISON. I withhold the request until the Senator from Florida can offer the bill he desires to introduce.

Mr. FLETCHER. I was only asking that we proceed with the regular order. We are now under the head of reports of committees, and if there are no further reports of committees, the introduction of bills and joint resolutions is in order.

Mr. HARRISON. I understood that the order of reports of committees had been concluded.

Mr. FLETCHER. I wish to have the announcement made, that is all.

The PRESIDING OFFICER. The order of business under which we are operating now is reports of committees. The resolution of the Senator from Mississippi will be in order later. Are there any further reports of committees? If not, the introduction of bills and joint resolutions is in order.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. KNOX:

A bill (S. 3945) relating to married women intermarried with aliens; to the Committee on the Judiciary.

By Mr. FLETCHER:

A bill (S. 3946) to establish and maintain a forest experiment station in the State of Florida; to the Committee on Agriculture and Forestry.

By Mr. JOHNSON of California (by request):

A bill (S. 3947) legalizing conveyances made by the Southern Pacific Railroad Co.; to the Committee on the Judiciary.

By Mr. SMOOT:

A bill (S. 3948) for the relief of the estate of John Scowcroft; to the Committee on Claims.

By Mr. WATSON:

A bill (S. 3949) for the relief of the estates of Helen P. Carson, deceased, and Elizabeth Campbell, deceased; to the Committee on Claims.

ARMY REORGANIZATION.

Mr. RANSDELL. I submit an amendment intended to be proposed by me to the bill (S. 3792) to reorganize and increase the efficiency of the United States Army, and for other purposes, to insert on page 20, line 5, after the words "major general," the words "two Assistant Chiefs of Engineers with the rank of brigadier general." I move that the amendment be printed and lie on the table.

The motion was agreed to.

IMPORTATION OF COAL-TAR PRODUCTS.

Mr. SPENCER submitted an amendment intended to be proposed by him to the bill (H. R. 8078) to regulate the importation of coal-tar products, to promote the establishment of the manufacture thereof in the United States, and, as incident thereto, to amend the act of September 8, 1916, entitled "An act to increase the revenue, and for other purposes," which was ordered to lie on the table and be printed.

AMENDMENT TO AGRICULTURAL APPROPRIATION BILL.

Mr. MCNARY submitted an amendment proposing to appropriate $60,000 to enable the Secretary of Agriculture to cooperate with the War Department in the maintenance of an air patrol for fire prevention or suppression in the national forests of the Pacific coast, etc., intended to be proposed by him to the Agricultural appropriation bill, which was referred to the Committee on Agriculture and Forestry and ordered to be printed.

MEMORIAL ADDRESSES ON THE LATE REPRESENTATIVE ESTOPINAL.

Mr. RANSDELL. Mr. President, I ask unanimous consent that the Senate shall convene on Sunday, March 7, at 12 o'clock meridian, to consider resolutions in commemoration of the life, character, and public services of the late Representative from Louisiana, Hon. ALBERT ESTOPINAL.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

DISTRICT PUBLIC-SCHOOL SYSTEM.

Mr. HARRISON. I offer the resolution which I send to the desk, and I ask unanimous consent for its present consideration.

The PRESIDING OFFICER. The resolution will be read.

The resolution (S. Res. 310) was read, as follows:

Resolved, That a select committee of seven Senators, four from the majority party and three from the minority party, be appointed by the President of the Senate to investigate the public-school system of the District of Columbia.

That said committee shall investigate specifically the manner of appointing the superintendent, principals, teachers, and other employees of the public schools of the District; the personnel, adequacy, and pay of teachers and other employees of the public schools of the District; the accommodation, heating, lighting, ventilation, and sewerage of the public-school buildings of the District; the number of holidays, courses of study, and discipline adopted by the teachers and management of the public schools of the District; and such other policies adopted by the management of the public-school system of the District as, in the discretion of the committee, is advisable to investigate.

That the committee so appointed shall be authorized to select its own chairman, to send for persons and papers, to administer oaths, and to employ a stenographer or stenographers to report such hearings as may be held in connection with such investigation.

That said committee may sit during the sessions of the Senate, and it shall report its findings and recommendations to the Senate at the earliest date possible.

Mr. CURTIS. Mr. President, may I ask the Senator a question?

Mr. HARRISON. Certainly.

Mr. CURTIS. Is the resolution broad enough to include the question of the school facilities of the District?

Mr. HARRISON. I have tried to make it so broad that it would include everything pertaining to the public-school system in the District.

Mr. CURTIS. And the attendance?

Mr. HARRISON. If it does not include that, I am perfectly willing that an amendment shall be adopted which will cover it.

Mr. CURTIS. I think it is broad enough, but I asked the question in order to be sure.

Mr. HARRISON. I think it is, because it says "the whole public-school system." In the discretion of the committee, anything that is not specifically named might be investigated.

Mr. KING. Mr. President, I shall not object to the consideration of the resolution, but I do suggest to the Senator that the committee is entirely too large, and I ask him to accept a suggested amendment that the number be reduced to five.

Mr. HARRISON. That is perfectly agreeable to me. I ask that the resolution be so modified, and that it be made to read so that three of the committee will be selected from the majority party of the Senate and two from the minority party.

The PRESIDING OFFICER. The Secretary will state the modification, which is accepted by the Senator from Mississippi.

The READING CLERK. Strike out the word "seven" and insert "five," so that it will read "five Senators."

Strike out "four" and insert "three," and strike out "three" and insert "two," so as to read "three from the majority party and two from the minority party."

The PRESIDING OFFICER. Is there objection to the request for immediate consideration? The Chair hears none.

Mr. SMOOT. Mr. President, let the resolution be read again.

The PRESIDING OFFICER. The Secretary will read the resolution as modified.

The Reading Clerk read the resolution as modified, as follows:

Resolved, That a select committee of five Senators, three from the majority party and two from the minority party, be appointed by the President of the Senate to investigate the public-school system of the District of Columbia.

That said committee shall investigate specifically the manner of appointing the superintendent, principals, teachers, and other employees of the public schools of the District; the personnel, adequacy, and pay of teachers and other employees of the public schools of the District; the accommodation, heating, lighting, ventilation, and sewerage of the public school buildings of the District; the number of holidays, courses of study, and discipline adopted by the teachers and management of the public schools of the District; and such other policies adopted by the management of the public-school system of the District, as, in the discretion of the committee, is advisable to investigate.

That the committee so appointed shall be authorized to select its own chairman, to send for persons and papers, to administer oaths, and to employ a stenographer or stenographers, to report such hearings as may be held in connection with such investigation.

That said committee may sit during the sessions of the Senate, and it shall report its findings and recommendations to the Senate at the earliest date possible.

Mr. SMOOT. Mr. President, under the law that resolution must go to the Committee to Audit and Control the Contingent Expenses of the Senate.

Mr. HARRISON. I endeavored to so draft the resolution that it would not have to be referred to the committee.

Mr. SMOOT. I am quite sure, if I caught the reading of it, that the Committee on Contingent Expenses is where it would have to be referred.

Mr. HARRISON. The resolution does not provide that the expense shall be paid out of the Treasury. If it did I should think without question it would have to go to that committee, but the resolution states nothing specifically about the payment of expenses.

Mr. SHERMAN. Mr. President, will the Senator from Mississippi yield for an inquiry?

Mr. HARRISON. Certainly.

Mr. SHERMAN. The purpose of this resolution is to investigate the conditions in the public schools of the District and to ascertain not only the conditions as to housing facilities, heating, future buildings, and so forth, but also to investigate the practical operation of the schools and what may be required in the way of current needs, and also, if there are any shortcomings, what they may be?

Mr. HARRISON. Yes, sir; the Senator states the object of the resolution.

Mr. SHERMAN. Mr. President, I should be very glad to have the resolution adopted. I prefer to have it adopted in this form rather than to have it come to the Committee on the District of Columbia.

Mr. SMOOT. Mr. President, I call the attention of the Senator from Mississippi to the wording of the resolution:

That the committee so appointed shall be authorized to select its own chairman, to send for persons and papers, to administer oaths, and employ a stenographer or stenographers to report such hearings as may be held in connection with such investigation.

How are they to be paid?

Mr. HARRISON. The object, of course, was that they were to be paid out of the Treasury.

Mr. SMOOT. Then we will have to make an appropriation for it.

Mr. HARRISON. I thought perhaps we could come back with another resolution later on to cover that.

Mr. SMOOT. I will say to the Senator that the proper way to do is either to offer a resolution in the regular form or to send this resolution to the committee, and the committee will amend it so as to conform to all of the other resolutions. One of those two things will be necessary unless you make it a joint resolution. If you want to do that, and let it go to the House and be passed by the House, then it will be paid out of the Treasury of the United States; but nothing can be paid out of the Treasury of the United States on a simple Senate resolution. This will be paid out of the contingent fund of the Senate, and that is where all of these expenses are paid from; and under the law this resolution would have to go to that committee, or you could not pay your stenographer or stenographers.

Mr. HARRISON. Suppose we should strike out the provision for the employment of a stenographer; in the Senator's opinion then would the resolution have to go to the Committee to Audit and Control the Contingent Expenses of the Senate?

Mr. SMOOT. No; if this resolution can be complied with without the expenditure of any money, then it will not have to go to that committee.

Mr. HARRISON. Of course, the committee might see that it could not get along without a stenographer, and immediately come back with another resolution.

Mr. SMOOT. I see nothing in this resolution that would require it to go to the committee if you strike out the provision for the employment of a stenographer or stenographers, as long as the Senator felt that the committee appointed could attend to all of the work required under this resolution without the payment of a cent from the contingent fund of the Senate or from the Treasury.

Mr. HARRISON. Oh, I certainly feel that in the end it will have to go to the Committee to Audit and Control the Contingent Expenses of the Senate.

Mr. SMOOT. Then, the very quickest way for the Senator to get action—and I want to say that I am in favor of the resolution—is to let it be referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

Mr. HARRISON. I have no objection to that being done.

Mr. KING. Mr. President, I want to say to my colleague that I think one-half of the expenses of the investigation should be paid by the District, and not all charged to the Government of the United States.

Mr. SMOOT. That will bring up an entirely new precedent, because when the Senate wants to make an investigation it must pay the expenses.

Mr. KING. I shall insist that the District pay part of it.

Mr. SHERMAN. Mr. President, I hope the resolution will have early and favorable action. I think it will not be an expensive investigation.

Mr. SMOOT. I do not think there is any question but that the Committee to Audit and Control the Contingent Expenses of the Senate at the very first meeting that is held will report out the resolution. I expect that meeting to be early next

week, and in my opinion the committee will then report out the resolution.

The PRESIDING OFFICER. The resolution will be referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

FINANCE BRANCH OF WAR DEPARTMENT.

Mr. KING. Mr. President, I have received a number of telegrams and communications with reference to the action of the Government heretofore taken in removing from one of the departments one agency for the payment of the expenses of the Government; and I have one of the types of the telegrams here, which I ask may be referred to the Committee on Military Affairs. They desire to secure the return of the finance branch to the Quartermaster Corps, the same as it was during the prewar period. This is signed by Mr. Lester D. Freed, president of the Salt Lake Chamber of Commerce. I do not ask that it be printed in the RECORD.

The PRESIDING OFFICER. The telegram will be referred to the Committee on Military Affairs.

PRICE OF WHEAT.

Mr. KING. I have also a telegram from the Chamber of Commerce of Ogden, Utah, which is a type of many I have received, protesting against what is known as the Gronna bill. I ask its reference to the Committee on Agriculture and Forestry.

The PRESIDING OFFICER. It will be so referred.

FOREST RESOURCES OF THE UNITED STATES.

Mr. CAPPER. I offer a resolution calling on the Secretary of Agriculture for certain information in regard to the forest resources of the United States. If there is no objection, I ask that it be given immediate consideration.

The PRESIDING OFFICER. The Secretary will state the resolution.

The resolution (S. Res. 311) was read, as follows:

Whereas it has been reported that the forest resources of the United States are being rapidly depleted, and that the situation is already serious and will soon become critical; and

Whereas these alleged facts are either largely unknown to the public or in dispute: Therefore be it

Resolved, That the Secretary of Agriculture be, and he is hereby, directed to report to the Senate on or before June 1, 1920, on the following matters, using what information the Forest Service now has available, or what may be obtained readily with its existing organization:

1. The facts as to the depletion of timber, pulpwood, and other forest resources in the United States.

2. Whether, and to what extent, this affects the present high cost of materials.

3. Whether the export of lumber, especially of hardwoods, jeopardizes our domestic industries.

4. Whether this reported depletion tends to increase the concentration of ownership in timberlands and the manufacture of lumber, and to what extent; and if such concentration exists, how it affects or may affect the public welfare.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. SMOOT. Mr. President, I should like to have the resolution stated again; or perhaps the Senator from Kansas can tell me what I desire to know without reading the entire resolution. Do I understand the resolution to apply to lands generally or only to the public lands?

Mr. CAPPER. The forest resources generally.

Mr. SMOOT. I think at least some of the information asked for would be foreign to the public lands; and I was wondering whether it would be proper to adopt a resolution authorizing the Secretary of Agriculture to make an investigation of hardwoods in the United States, all of which, I think, are outside of the public lands.

Mr. CAPPER. There is no objection to the resolution covering the whole field. It simply asks for information that the Secretary of Agriculture probably has now. I do not think it will involve any extensive investigation or expense to the department.

Mr. SMOOT. I will ask to have the resolution stated again.

The PRESIDING OFFICER. The resolution will be restated.

The Reading Clerk again stated the resolution.

Mr. SMOOT. Of course, the statement of the first "Whereas" has reference entirely to the Forest Service; but the information asked for has a wider and broader scope, and as the Senator states that the information is already in the possession of the department I see no objection at all to having it compiled and put in this form.

Mr. CAPPER. I do not think there ought to be any objection at all to it.

Mr. SMOOT. No; I do not think there should be any objection if the information is already in the possession of the department; but if it were not in the possession of the department, then I think it would be questionable to compel the department to try to get all of that information by June 1.

Mr. CURTIS. Mr. President, as I understand, it only applies to such information as they have on hand.

Mr. CAPPER. Yes; as I stated.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to.

CIVILIAN EMPLOYEES AT LANGLEY, VA.

Mr. NEW. Mr. President, I ask unanimous consent for the consideration for the remaining three minutes of the morning hour of Senate bill 3516, Order of Business 371.

Mr. SMOOT. Mr. President, I should like to ask the Senator a question, because if the bill is what I think it is I do not believe we can pass it in the two minutes that are left. The bill extends to civilian employees of the National Advisory Committee for Aeronautics the privilege of purchasing subsistence stores and commissarial supplies at cost plus 10 per cent.

Mr. NEW. Exactly.

Mr. SMOOT. Does the Senator think that is proper?

Mr. NEW. I certainly do.

Mr. SMOOT. I shall want to see a report on it before the bill is passed.

Mr. NEW. Well, here is the report on it.

Mr. SMOOT. It will take longer than two minutes to take it up and pass it, Mr. President.

The PRESIDING OFFICER. The Senator from Utah objects.

Mr. SMOOT. If we are going into the business of furnishing civilian employees of the Government food supplies at cost and 10 per cent——

Mr. NEW. Oh, Mr. President, this simply extends to the department authority to permit certain civilian employees of the National Advisory Committee for Aeronautics to buy from the commissary stores at cost plus 10 per cent. Those civilian employees are operating in connection with the Government forces at Langley Field. The Government is getting the benefit of what they are doing, and the department simply wants authority to house those people and to subsist them at Langley Field while they are doing this work.

Of course if the Senator from Utah objects to its consideration we can not pass it at this time.

Mr. SMOOT. I object to the principle of it, and I want to know really why the privilege should be granted to this class of civilian employees more than any other.

Mr. NEW. I withdraw the request.

The PRESIDING OFFICER. The request for unanimous consent is withdrawn. The morning hour is closed.

TREATY OF PEACE WITH GERMANY.

Mr. LODGE. I move that the Senate proceed to the consideration of the treaty with Germany in open executive session.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the treaty of peace with Germany.

Mr. LODGE. I make the point of no quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The roll was called, and the following Senators answered to their names:

Ashurst	Fletcher	Kenyon	Phipps
Ball	Frelinghuysen	Keyes	Pittman
Beckham	Gay	King	Poindexter
Borah	Glass	Knox	Ransdell
Brandegee	Gronna	Lodge	Sheppard
Capper	Hale	McKellar	Sherman
Chamberlain	Harris	McLean	Smith, Ga.
Colt	Harrison	McNary	Smoot
Curtis	Johnson, Calif.	Nelson	Spencer
Dial	Johnson, S. Dak.	New	Sterling
Dillingham	Jones, N. Mex.	Norris	Thomas
Edge	Jones, Wash.	Nugent	Trammell
Elkins	Kellogg	Overman	Walsh, Mont.
Fernald	Kendrick	Page	

The PRESIDING OFFICER. Fifty-five Senators having answered to their names, there is a quorum present.

Mr. LODGE. Mr. President, the pending question is the amendment which I moved to reservation No. 1, reported to the Senate by the Committee on Foreign Relations. I wish to say but a word in regard to the point made yesterday about the granting of the power to the President alone to give notice of withdrawal from the league. Thanks to the kindness of the Senator from Minnesota [Mr. KELLOGG], I have the cases here in regard to the exercise of that power by the President.

The usual method in the termination of treaties, as I suppose everyone knows, has been the termination by joint resolution of Congress, of course signed by the President, or the President

giving notice that owing to legislation adopted by Congress it made necessary the termination of an article in a treaty or of an entire treaty. But there are two cases in which the President alone gave notice. One was on March 23, 1899, when notice was given to the Swiss Government to terminate articles 8 and 12 of the treaty of 1850. The other one was notice given by President Taft in 1911 for the termination of the treaty with Russia. Subsequently the President informed the Senate of his action and received their approval.

Also, we found another interesting case where President Pierce in 1850 asked for authority to give notice to Denmark of the termination of the treaty of 1826, and that authority was given to him by Senate resolution. There was some question about it, raised by Mr. Sumner, and the Committee on Foreign Relations reported upon it favoring the resolution, which was passed, and the President was sustained. This last case is of interest, as it is a direct precedent for what is done here, the Senate giving authority to the President to give notice of termination of a treaty, which, of course, is parallel to giving notice of withdrawal from the covenant of the league, which is an article in the treaty. I think that this is the proper way of dealing with the question.

The new feature, of course, and the vital feature, is giving power to the two Houses of Congress to give the notice and conferring it formally upon the President, although the President in the two instances I have pointed out exercised the power of giving notice of termination or withdrawal without action by Congress. That is all I desire to say.

Mr. BORAH. May I ask the Senator a question?

Mr. LODGE. Certainly.

Mr. BORAH. Suppose we should adopt the reservation as it was originally written, is it the opinion of the Senator from Massachusetts that the President could nevertheless give notice as President Taft did and as was given in the other instances cited and terminate the treaty?

Mr. LODGE. That is in line with those two precedents, which were never questioned at the time. I think it is at least doubtful whether the President has not the power to do that.

Mr. BORAH. If the President has not the power, we would have the right under the treaty to fix the method by which we could come in again or fix that by treaty, regardless of whether he has the power?

Mr. LODGE. I think there is no question about that. How the notice of withdrawal shall be given is, of course, something which concerns this country alone. I think we can put in any provision we please as to how, just as we arrange the time when the notice shall be given. We have the direct precedent, which I just quoted, of giving authority to the President to withdraw from the treaty by his own act.

Mr. THOMAS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Colorado?

Mr. LODGE. I yield.

Mr. THOMAS. I voted against the first reservation last November for many of the reasons which the Senator has assigned for the introduction of the substitute, and I heartily concur in the conclusions at which the Senator has arrived. My impression is that if we are to pass any reservations upon the subject, that which is now before the Senate is the proper one.

Mr. WALSH of Montana. Mr. President, the reservation heretofore adopted by a majority of the Senate and now reported from the Committee on Foreign Relations reads as follows:

> The United States so understands and construes article 1 that in case of notice of withdrawal from the League of Nations, as provided in said article, the United States shall be the sole judge as to whether all its international obligations and all its obligations under the said covenant have been fulfilled, and notice of withdrawal by the United States may be given by a concurrent resolution of the Congress of the United States.

It is proposed to modify that so that the last clause shall read:

> And notice of withdrawal by the United States may be given by the President or by Congress alone whenever a majority of both Houses may deem it necessary.

The effect being that it is expressly declared that the United States may get out of the league by reason of notice given by the President or by reason of notice conveyed in some way or other upon the action of both Houses of Congress.

The original reservation was framed evidently with a view to making it easy to get out of the league. It is not quite so easy to pass an ordinary law as it would be to get out of the league under the reservation as originally reported. No matter how trivial may be the law in the ordinary acceptance of the term, it needs the concurrence of the legislative branch of the Government and of the President, and it is impossible to repeal a law either in whole or in part without such joint action.

The purpose evidently was to exclude the President from participation in the procedure of withdrawing from the league. I have no doubt that there were two purposes actuating those framing the reservation. As indicated, in the first place there was a purpose to make it easy to get out. We have different views about these matters and all of us indulge in our own opinions. My own opinion was at the time, and I have had no reason to change it, that a further consideration operating to induce the reporting of the reservation in the shape in which it reached us was an unreasoning and an unreasonable antipathy to the President of the United States, which everybody must recognize is a very large element in whatever opposition has developed to the treaty. I undertake to say that nine letters out of every ten which have reached me expressing opposition to the league breathe a spirit of hatred of the President of the United States. I may be wrong, but that is my notion about it, and it seems to me that in this particular case the element of personal antipathy went so far as to prompt an attempt to incorporate in this amendment a provision that is nugatory because against the very plain language of the Constitution, that any resolution of Congress requiring the joint action of both Houses must, in order to be effective at all, be submitted to the President of the United States and approved by him, or being disapproved must be returned and concurred in by a two-thirds vote of both Houses.

Mr. KELLOGG. Mr. President——

The PRESIDING OFFICER. Does the Senator from Montana yield to the Senator from Minnesota?

Mr. WALSH of Montana. Certainly.

Mr. KELLOGG. The Senator does not deny that the Senate alone may authorize the President to withdraw from a treaty?

Mr. WALSH of Montana. My view about that is that the power which makes the treaty may unmake the treaty. The President of the United States concurring with two-thirds of the Senate may make a treaty, and I have no doubt that the President of the United States and two-thirds of the Senate may unmake a treaty, the right being reserved to our Government to withdraw.

Mr. KELLOGG. Is there any doubt also about the fact that the power which makes the treaty may designate the manner of withdrawing from it?

Mr. WALSH of Montana. Yes; there is the gravest kind of doubt in my mind. I have no idea that the President of the United States and the Senate of the United States may abandon their functions and prescribe that we may get out of the league at any time the mayor of the city of Chicago so determines and declares. I have no doubt that such action on their part would be void. Has the Senator from Minnesota any doubt about it?

Mr. KELLOGG. Yes; I have doubt about it. I think that the Senate and the President can make a treaty to be terminated on the happening of any event, and the Senator will remember that he joined in a report of the Committee on the Judiciary to that effect.

Mr. WALSH of Montana. The Senator is very familiar with the decisions of the courts with reference to the matter to which he averts. They do not go so far as to say that a statute may be made to terminate upon any contingency whatever to be determined by anyone whomsoever.

Mr. KELLOGG. But the Senator was of the opinion that the proposed treaty to be made between France, Great Britain, and the United States, which was to continue in existence until the League of Nations should terminate or determine the fact that it was unnecessary for the further protection of France, was a constitutional exercise of the treaty-making power?

Mr. WALSH of Montana. The Senator will not——

Mr. KELLOGG. Let me finish. If that be true—and I think there is no doubt of it—it seems to me the Senate and the President may make a treaty from which either the President or the Congress may withdraw, if the treaty so provides.

Mr. WALSH of Montana. The distinction between the case to which the Senator refers and the one before us is perfectly plain to anyone who desires to see. A statute may be passed to terminate upon a certain contingency; that is to say, upon the transpiring of a certain event, or the existence of a certain condition, to be determined by some one, within certain limits, who may be designated in the statute. The council of the League of Nations, in the case to which the Senator refers, as provided in the treaty with France, is simply empowered to determine the fact as to whether the league affords sufficient protection to France against a possible further invasion by Germany. If that tribunal determines that it does, then that treaty, by its terms, ceases. Under the reservation before us the Congress of the United States is not called upon to determine the existence of any fact or any condition whatever. It is therein provided that whenever, in their judgment, in their wisdom, in

their discretion, bear in mind, the Congress of the United States, the two Houses of Congress, without any participation by the President whatever—not upon the determination of any fact, not upon the determination of any conditions, but when in their judgment it is no longer good public policy to continue our membership in the league they may act and terminate it. That is the difference between the two. All the authorities hold is that we may repose in some person or body the determination of whether a certain event has taken place or a certain condition exists, the statute or treaty to terminate upon the determination of that question; but to repose in the Congress of the United States power that by the Constitution is reposed jointly in the Congress and the President of the United States is as impossible as to repose it in the mayor of the city of Chicago.

Mr. KELLOGG. But the Senator is aware of the fact that many treaties have been abrogated by the action of Congress and the President. I might ask the Senator what the House of Representatives has to do with it then?

Mr. WALSH of Montana. That is very simple. The Congress of the United States is the legislative power in this country. By the joint action of the two Houses, with the approval of the President, a treaty which is a law may be abrogated, just the same as any other law may be repealed by a subsequent act of Congress.

Mr. KELLOGG. Does the Senator from Montana deny that the Senate and the President in making a treaty may authorize the President to give the notice of withdrawal without the concurrence of the Senate?

Mr. WALSH of Montana. I doubt it; and I doubt it because we can not derogate from the power of future Senates. We can not say to the Senate that shall exist here 10 years hence, "You are going to have nothing whatever to say about this matter; we are going to repose in the President of the United States, whosoever he may be 10 years from now, the power to terminate this treaty, if he sees fit so to do." The Senate at that time will be entitled to say whether or not that treaty shall be abrogated. That is my view about it.

Mr. BRANDEGEE. Mr. President——

The PRESIDING OFFICER (Mr. HARRIS in the chair). Does the Senator from Montana yield to the Senator from Connecticut?

Mr. WALSH of Montana. I yield.

Mr. BRANDEGEE. Bearing in mind that we are now dealing with a reservation which does not become a part of the treaty, but which is our understanding and which is to be agreed to by the other signatories, if the Senate attaches a reservation that notice of withdrawal may be given by a Senate resolution, inasmuch as the only object of the reservation is to estop the other party from complaining, if they agree that that shall be good notice, would not that be a valid way to get us out of the treaty?

Mr. WALSH of Montana. I have just expressed my opinion that it would not be; and it would not be, it seems to me, for perfectly plain and obvious reasons. This treaty is no different from any other treaty. As very properly expressed by the Senator from Massachusetts [Mr. LODGE], we simply abrogate the treaty in part; other treaties we nullify in their entirety. We now ratify a treaty, say a treaty with Denmark; suppose we put in the treaty with Denmark that it might be abrogated at any time by notice given by the Senate of the United States, and 10 years from now the Senate of the United States should undertake to exercise that power. The President of the United States would say, "I have something to say about whether or not this treaty shall be abrogated. The Senate of the United States which existed 10 years ago can not deprive me of any power granted to me by the Constitution. This treaty will not be abrogated. I will not transmit the message, and I shall consider the treaty as still in force and effect until I concur in the action by which it is to be terminated."

Mr. COLT. Mr. President, may I ask the Senator a question?

Mr. WALSH of Montana. I yield to the Senator from Rhode Island.

Mr. COLT. Is not this treaty a contract between the United States and the other members who may join in it?

Mr. WALSH of Montana. It is; but it is also a law of the United States.

Mr. COLT. And when we are making such a contract can we not annex to it any condition we may please in regard to giving notice as to its termination? Does not that become a part or a condition of the contract? I merely ask that question for information.

Mr. WALSH of Montana. The treaty is, of course, a contract between us and the other nations, and in addition to that it is a law of the United States; it is a law which every citizen of the United States is required to observe; it is a law which controls the action of the Government with reference to matters with which it deals. Our laws are made in a certain way; they are also abrogated in a certain way. We can not derogate in any way from the power of future Congresses or future Senates or future Presidents of the United States, and if we undertake to do so by a contract with a foreign nation any effort in that direction is, in my judgment, nugatory.

Mr. LENROOT. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. Does the Senator from Montana yield to the Senator from Wisconsin?

Mr. WALSH of Montana. I do.

Mr. LENROOT. Assuming the correctness of the Senator's contention that the treaty may only be abrogated by the sovereign authority, whatever it may be, does the Senator contend that notice might not be given by anyone as provided for in the contract?

Mr. WALSH of Montana. Mr. President, we get confused here. Under any and all circumstances the actual physical act of giving notice will be performed by the President of the United States, because he is the only agency through which we confer with other powers. The important question is where is reposed the power to determine whether or not the notice will be given, and I contend that the Constitution vests that either in the Congress by a legislative act or in the President and the Senate as the treaty-making body?

Mr. LENROOT. But might we not by contract provide that, if anyone should give the notice, at the expiration of the two-year period, the authority that would have the right to terminate might do so at any time? Would not that be the effect of it?

Mr. WALSH of Montana. That is the point I am making. The power that makes the treaty is the President and two-thirds of the Senate, and they are entitled to say as the years pass by whether or not it shall continue in force. The present Senate can not do anything which will deprive future Senates and future Congresses and future Presidents of the United States from having their say as to whether or not the treaty shall continue in effect.

Mr. LENROOT. No. But this relates only to notice. Now, assuming that the Senator is right, that it might require future action to actually terminate the treaty, then all that this provision would accomplish would be to get rid of the two years' notice that is required, and that might be given by anyone who is prescribed in the contract as having authority to give the notice.

Mr. WALSH of Montana. I am not able to follow the Senator from Wisconsin.

Mr. President, I desire simply to add that when the framers of the Constitution were considering the principles of the new system of government they were about to establish they had the idea in mind, the merits, and the weakness of a single legislative body, as under the Articles of Confederation, enjoying executive as well as legislative power; but they had tried out that system and had abundant evidence before them of how futile it was to endeavor to build a stable and efficient government upon any such basis. I presented to the Senate some weeks ago a pamphlet in which it was seriously urged that we should return to that system under which we would have no President, a system under which we would have no two bodies of Congress, but one single body in which all governmental powers, at least all legislative and executive powers, would be vested. We had tried out that system, and the framers of the Constitution had before them the disastrous results which flowed from it. So they provided that Congress could not do anything in the way of legislation, either to make laws or to unmake laws, except the matter was submitted to the President of the United States and received his concurrence, unless, indeed, his objection should be overruled by a two-thirds vote. That system has worked admirably.

It is one of the essentials of our system that these two branches of the Government—the Congress and the Executive—concur either in the making of laws or in the unmaking of them. Why depart in this instance from the salutary provisions thus made by the founders of the Constitution in the light of the painful experience which they had had with the other system.

Stop and think what is contemplated, Mr. President. If the Congress of the United States and the President are in entire harmony, the provision for a joint resolution would meet all the requirements of the case; a concurrent resolution or absolute power in the President can be useful only when the Congress of the United States and the President are antagonistic to each other; when the Congress wants to get out and the President wants to stay in——

Mr. POINDEXTER. Mr. President——

Mr. WALSH of Montana. Just a moment—or the President wants to get out and the Congress wants to stay in. It is for such a case that provision is being made; and I ask you what kind of a spectacle do you afford to the world with the President of the United States sending notice to all the nations that we are out of the league and the Congress of the United States protesting against his action, or, upon the other hand, the two Houses of Congress insisting that we are out of the league and sending such notice to all the world, by some indirect channel, while the President of the United States publishes a proclamation to the effect that we are in the league and bound by the obligations that attach to it.

Mr. POINDEXTER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Montana yield to the Senator from Washington?

Mr. WALSH of Montana. I yield.

Mr. POINDEXTER. If the Senator from Montana attaches so much value to the principle of a division of power on which he is now expatiating, and two branches of the legislative body and the separation of the Executive from the legislative powers, and of the judicial from either one of the others, which followed the unsuccessful experiment of the old Continental Congress—if the Senator believes that the present system under which we have lived for some one hundred and forty odd years is a good one, why does he advocate in the larger field of this league of all the nations of the world the concentration and consolidation of all the powers of government in the assembly of the league?

Mr. WALSH of Montana. That is quite aside from the question I am considering, and I do not care to be diverted from the question before us to discuss at this time the fundamentals suggested by the inquiry of the Senator.

Mr. President, I desire to call your attention to the fact that this very proposition which is now presented to us by the amendment proposed by the Senator from Massachusetts has already been considered and rejected by the Senate. It was directly involved in an amendment tendered by the Senator from Oklahoma [Mr. GORE] when this subject was last before the Senate for consideration. He proposed an amendment—I read from page 8134 of the CONGRESSIONAL RECORD of date November 8—so that if adopted the reservation would read:

> And notice of withdrawal by the United States may be given by the President or by a concurrent resolution of the Congress of the United States.

That motion was rejected by a vote of 18 yeas to 68 nays, and of the 18 who voted "yea" I have personal knowledge that at least half a dozen labored under a misapprehension of the nature of the amendment; so that there were not more than a dozen Senators who indorsed the idea at that time. Among those voting in the negative were the Senator from Massachusetts [Mr. LODGE], who now tenders an amendment of like import, and it was generally opposed upon the Republican side of the Senate. I call attention to this for the purpose of illustrating that the Senator from Massachusetts sometimes changes his mind, and, notwithstanding his rather strenuous protestations that no change whatever can be made in the reservation in relation to article 10, I still entertain the hope, upon this evidence before me, that he may yet be induced to change his mind about that.

Mr. President, on yesterday the Senator from Idaho [Mr. BORAH] made one of his entertaining speeches—and I always like to listen to him—in which he insisted that the Senate might just as well abandon this discussion at the present time, in view of the statements made by the Senator from Wisconsin [Mr. LENROOT] to the effect that no amendment whatever of the Lodge reservation in relation to article 10 could be tolerated, and the statement upon the part of the Senator from Nebraska [Mr. HITCHCOCK] that the Lodge amendment in relation to article 10 never could be accepted upon his side of the Chamber.

But, Mr. President, the statement made by the Senator from Wisconsin was to the effect, as I recall, that no change in the substance of the reservation in relation to article 10 could be made, leaving it open to inference that a change in the form of the reservation in relation to article 10 might be entertained. There are differences of opinion in relation to what amendments relate to matters of form and what amendments relate to matters of substance. Some there are who think that a certain proposed amendment to that reservation affect the form of it only, while others think that they modify it and affect the reservation in a matter of substance. Considering the reservation as to article 10, agreed to in the bipartisan conference, as is contended by the representatives from this side of the Chamber, I thought that a very material change in the substance and meaning of article 10 was thereby made, that the effect of it, so far as the United States was concerned, was quite materially altered, but a very high authority considered that the change was a matter of form only or, rather, that the substance of article 10 was not affected, although the form in which the reservation was drafted was objectionable. So that, Mr. President, desirous as I am, and desirous as I have been to arrive at some agreement, if we can, that will secure the necessary 64 votes for the ratification of the treaty, I am still hopefully awaiting suggestions of amendments from Senators upon the other side, even though they consider them as not affecting the substance but only the form of the reservation. Why should not Senators on both sides labor assiduously, strive earnestly at least, to express the ideas conveyed by the language of the reservations in such form as not to be needlessly offensive or as will make them objectionable to the President, whose concurrence is necessary, if we are to have a treaty at all.

For instance, it will be recalled that the reservation under consideration provides that the United States assumes no obligation to preserve the territorial integrity or political independence of any other country or to interfere in controversies between nations, whether members of the league or not, under the provisions of article 10. Now, in my judgment the excision of the language "or to interfere in controversies between nations" would be a mere matter of form as to this reservation. It would not in any manner whatever, in my judgment, affect the meaning of the reservation. It would stand with exactly the same force and effect as it would have if those words remained in. But, Mr. President, when it was proposed in the bipartisan conference to strike these words out this view, though concurred in by some of the Republican Members, did not meet the approval of the chairman of the committee, the Senator having charge of the treaty, who objected strenuously to the excision of the language referred to. He thought apparently there was much of substance in it. I considered it a mere matter of form, and in the view expressed by me there was, as I have said, some concurrence.

Let us suppose, now, that it were proposed upon the other side to strike out this language "or to interfere in controversies between nations." Some might consider that as an amendment affecting the form of the reservation only, while others would stoutly maintain, I dare say, that it goes to the substance of the reservation.

Referring to that matter causes me to say that my recollection about the circumstances attending the break in the bipartisan conference is not altogether, at least in details, in conformity with the account given by my esteemed friend, the Senator from Tennessee [Mr. MCKELLAR], on yesterday. My recollection—and it is exceedingly vivid—is that the bipartisan conference had agreed upon the amendment tendered by the Senator from Nebraska [Mr. HITCHCOCK] as the work of that committee.

I do not mean to say, now, that each member of the committee expressly declared his acceptance of or acquiescence in the reservation as it was reported; but the fact about the matter is that having reached that form the committee passed entirely from the alterations made to consider a suggestion that the words "or to interfere in controversies between nations" be stricken out as being useless, as having no meaning whatever. It was while the committee had that matter under consideration that the Senator from Massachusetts [Mr. LODGE] expressed his decided opposition to striking out the language referred to, and thereupon he asked his colleagues to go into the adjacent room for a conference. They were there some time, when we sent word to them that it was getting late, and that we would meet them the next morning. The press stated that meanwhile the Senator from Massachusetts had held a conference with the so-called irreconcilables on the Republican side of the Senate, and when the committee reassembled he told us that he would not be able to concede any change whatever in article 10. I have accordingly been obliged to assume that the conclusion at which he arrived was induced by the conference he had with those who are opposed to the treaty, not those who are in favor of its ratification.

Mr. BORAH. Mr. President, there were no irreconcilables on the bipartisan committee, I believe.

Mr. WALSH of Montana. No; but they evidently were keeping pretty close track of the proceedings, and I rather guess that having heard that the committee was on the eve of coming together they thought it timely to get into communication with the chairman of the committee.

Mr. BORAH. I must say that while the irreconcilables were trying to keep track of the committee, it was a very difficult thing to do, because that committee put it all over the Versailles conference on secrecy.

Mr. WALSH of Montana. We did the best we could. Yes; that reminds me. This is by way of digression, but I called the

attention of the Senator from Missouri [Mr. REED] some days ago, when some animadversions were being made by him upon the President of the United States by reason of his participation in the policy of secrecy that attended the meetings of the conference, to the fact that the press at the time it assembled carried the information to the world that the President of the United States was in favor of giving a large degree of publicity to the proceedings, but that he had been overruled by the other countries represented. I now have before me an article from the New York Times of January 11, 1919, a contribution from its regular correspondent, Mr. Oulahan, who says:

It is expected that the formula will soon receive publicity, as the American delegation has decided to propose open sessions of the inter-allied conference when the first meeting is held next week.

And when next week came the cables reported that they had been overruled.

The Senator from Idaho [Mr. BORAH], in his interesting contribution to the debate on yesterday, in which he protested the futility of further discussion on the treaty in the Senate, declared that the people of the United States were going to determine the whole matter at the ensuing election; that it would be impossible to keep it out of the campaign; that the American sovereigns were going to determine at that time whether the admonition of Washington concerning entangling alliances was to be put into the discard, and whether the historic doctrine of Monroe was any longer to be considered as a vital principle of American polity; that the league was even now a political issue thus to be resolved because the Republican national platform was foreshadowed in the address of Mr. Root before the convention in the State of New York. The Senator from Idaho read from the address referred to, as follows:

Immediately after March 4, 1921, a Republican President should urge upon the society of nations the reform of the league covenant, so as to make it establish the rule of public right rather than the rule of mere expediency, so as to make the peace of the world rest primarily upon law and upon the effectiveness and enforcement of law.

Mr. President, I do not believe that any issue will be raised upon that matter before the American people in the ensuing election. Indeed, I apprehend that there will be among the Democrats no particular opposition to that proposal of Mr. Root. It has been repeatedly asserted, and we all feel that way, that the covenant is by no means perfect. The Constitution of the United States was not perfect at the time it was framed; and although no convention was held for the purpose of revising it, there was common consent to the suggestion that it ought to be revised or at least its provisions supplemented, and amendments were proposed, some 10 of them, which were subsequently adopted without substantial opposition. I think it would not be unwise at all for the nations to get together after this treaty is ratified and the league is in operation, not only for the purpose of revising the covenant of the league but—if I may have the attention of the Senator from Colorado [Mr. THOMAS]—for the purpose of revising some other provisions of this treaty of which he spoke so impressively a few days ago.

Speaking for myself, I shall be glad to join with Mr. Root in his desire to have another congress assemble to see whether many of the objections which have been made to the covenant can not be obviated by concerted action of the signatory powers. But the Senator from Idaho did not read another part of Mr. Root's speech, in which he said:

It seems clear to me that in the interests of the world's peace, which all America desires to promote, this treaty ought to be ratified with the reservations of the Senate, and that without those reservations in their fair and honest substance it ought not to be ratified. I hope the treaty will be ratified with the reservations long before the presidential election. That will be done if the President permits it. If that is not done, then that is what I think the Republican Party ought to stand for.

Mr. President, that is in strict accord with the statements made in the letter of Mr. Root, sent to Mr. Hays at an early stage of this discussion, in which he declared that the treaty ought to be ratified, that there was much good in it, and he goes on to specify the particulars in which it has his approval.

The whole letter is an indorsement not only of the general plan of a League of Nations but of the specific covenant worked out at Versailles. Moreover, Mr. Root has declined to become a representative from the State of New York to the national convention, because he desires to accept the place tendered to him as a member of the commission which is to provide for the creation of the international court contemplated by the covenant. Mr. Root is not going to help carry out the provisions of the league unless in general the plan has his approbation, and he anticipates that in some form or other the league will come into being and be operative.

Mr. BORAH. Mr. President——

Mr. WALSH of Montana. I yield to the Senator from Idaho.

Mr. BORAH. If the treaty should be ratified with the reservations known as the Lodge reservations—and I understand it to be the view of Mr. Root that it should be ratified, if at all, in that way—does the Senator think—speaking now of its going into politics—that the convention at San Francisco would ratify that action?

Mr. WALSH of Montana. That is just the point I was going to make. If the Senator is correct in saying that the State of New York will dominate the Republican convention, and that the platform adopted at the national convention is foreshadowed in the platform adopted by the convention for the State of New York, and the Democratic convention does what is expected of it—that it will declare in favor of the ratification of the treaty without reservations, or with such interpretive reservations as those offered by the Senator from Nebraska [Mr. HITCHCOCK]—then the issue will be between the Republicans upon the one side, favoring the ratification of the treaty with the Lodge reservations, and the Democrats upon the other side, favoring the ratification of the treaty without reservations, or with the interpretive reservations offered by the Senator from Nebraska. In that event, let me inquire of the Senator from Idaho, How are the people going to be heard upon the question as to whether or not we shall engage in entangling alliances with the powers of Europe or whether the Monroe doctrine shall be abandoned?

It is unnecessary to say again that not one of the eighty-odd Senators who voted for ratification believes that either the teachings of Washington or the doctrine of Monroe are disregarded in their action.

Mr. SMITH of Georgia. Mr. President, I should like to suggest, run a candidate who desires to take us at once out of the league, and under this reservation the people would have an opportunity of saying whether they wanted to come out or not.

Mr. WALSH of Montana. Exactly.

The Senator from California [Mr. JOHNSON] is more consistent about this. He denounces Mr. Root's platform. He says it does not express the correct Republican doctrine; that he and the Senator from Idaho [Mr. BORAH] represent the only attitude of their party on the treaty. He does not want to have anything to do with it. The Senator from Idaho has repeatedly declared that he is against a league, reservations or no reservations; he is against any league of nations; and that is the doctrine that he has been preaching with great power and with great eloquence both in the Senate and before the country. The Senator from California is quoted in this morning's paper as saying as follows:

ROOT WRONG ON LEAGUE, SENATOR JOHNSON SAYS.

Direct disagreement with Elihu Root's opinion of the peace treaty as a political issue, as expressed yesterday in a speech to the unofficial State convention of New York Republicans, was voiced last night by Senator HIRAM JOHNSON, of California, a candidate for the Republican presidential nomination.

In a formal statement Senator JOHNSON declared it would be "neither fair to the other members of the league nor to the people of the United States to enter the league, as Mr. Root suggested, and then have the President inaugurated next March take steps to re-form the league covenant."

"If the league," the statement said, "establishes a rule of expediency rather than a rule of public right, as Mr. Root says it does, then it is neither wise nor statesmanlike for the United States to become a party to the present covenant for the brief space of a few months.

"If the league is all that Mr. Root says it is, then the time to re-form it is not on the 5th of March, 1921, but now. If it presents all the dangers to the United States which Mr. Root describes, then the time to avoid its dangers is now, and not after we have irrevocably become a party to it."

Mr. JOHNSON of California. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Montana yield to the Senator from California?

Mr. WALSH of Montana. I yield.

Mr. JOHNSON of California. Substantially, I think, the Senator from Montana has quoted me correctly. I ask him if he does not believe that if the dangers that are pointed out by Mr. Root are present in this covenant, the duty devolves upon the Senate of the United States to remove those dangers right now? If this covenant is, as Mr. Root suggests, a mere doctrine of expediency rather than an expression of the right, then we ought not to enter into any such covenant with either an express or a mental reservation that we are going to re-form it on the 5th day of March, 1921.

Mr. Root's position is that this is a covenant fraught with dangers; that those dangers ought to be avoided; that it does not represent the rule of right, but the rule of expediency; that we should enter into it with the so-called Lodge reservations and on the 5th day of March, 1921, rewrite it, re-form it, and amend it. I say, in response to that, that you can not amend it under the rules and under the provisions of the document after once you are in it, and that the time to amend it and to protect America is right now, before we go into it.

In that I take issue with Mr. Root, as has been suggested by the Senator from Montana. To me it is wholly illogical; not only illogical, but it is worse. It is a crime against the American people to say that we should go into a document which he describes as so dangerous and wrong as this document with the idea subsequently, on the 5th of March, 1921, of amending the document, when under its very provisions you can not amend it without the consent of practically every member of the league. Today let us remove its dangers. Let us take its sting out of it. Let us make it American to-day—not on the 5th of March, 1921.

Mr. WALSH of Montana. I gladly yielded to the Senator from California, whose earnestness and ability I admire and respect. I am sure, however, that he will relieve me from any obligation of acting in the capacity of a judge between himself and the distinguished Republican statesman from the State of New York.

But, Mr. President, I wish to remind the Senator from Idaho [Mr. BORAH] that in view of the situation of affairs to which I have called attention, if he expects to present to the people of the United States at the next election the question whether we ought to have a League of Nations or not, not any particular league but any league, in accordance with his contention, he will have to see that Mr. Root's ideas do not prevail in the Republican convention, and that it declares unequivocally in favor of the rejection of the treaty and against entering into any league of nations whatever, or if the treaty should be meanwhile ratified, to see that there is incorporated in the platform a plank as suggested by the Senator from Georgia [Mr. SMITH], declaring that the President nominated by that party, if elected, will immediately give notice of withdrawal pursuant to the provisions of the covenant in that regard. Otherwise, I find it impossible to conceive that the question which the Senator would like to discuss before the people at the next election, and which he would, of course, discuss with his usual ability and power, can be an issue, as he asserts it will be in the campaign now before us.

Mr. BORAH. It will be presumption upon my part, of course, to assume that the Senator from Idaho could have any considerable influence in the Chicago convention against a program which might be agreed upon by those who are more experienced in party affairs, but I do not think I need to say to the Senator from Montana that small as the influence may be, it will be there, and it will be exerted until the convention is over, and so far as I am individually concerned the question will be presented to the American people after the convention is over.

Mr. WALSH of Montana. Then the only way, it seems to me, that the Senator will be able to get it there will be to hold another convention and make the rejection of the treaty the corner stone of his platform.

Mr. BORAH. Not necessarily hold another convention, although that might happen; but I want to see the Democratic candidate who stands up before the American people at the next election and advocates the league as it now stands.

Mr. WALSH of Montana. That is what I suggested. Then the question will be between the covenant without reservations and the covenant with the Lodge reservations.

Mr. BORAH. I venture to say the Senator's party will not have a candidate for President advocating a league without reservations.

Mr. WALSH of Montana. I am inclined to believe the Senator is correct about that, which emphasizes the point I made, that the only way there can be presented to the people the issue which he desires to debate before them is to introduce in the platform of his party a plank denouncing the league, if the treaty is not ratified in the meanwhile, or declaring that notice should forthwith be given of withdrawal.

Mr. BORAH. The corrective influence of public opinion has its effect even upon a candidate for the Presidency. I remember that in the last campaign the convention had hardly closed until the candidate for President upon the Republican ticket felt under the necessity of writing a new platform. He had heard from some people from whom he had not heard in the convention. I am perfectly willing to take my chances in the next campaign regardless of what may be said at those conventions on the proposition that the question will be fought out before the American people as to whether we shall go into the league at all or not.

Mr. JOHNSON of California. Mr. President——

Mr. WALSH of Montana. I yield to the Senator from California.

Mr. JOHNSON of California. In order that I may make entirely plain what doubtless is entirely plain to the Senator from Montana, I think it is necessary only to call to his attention, and to the attention of the Senate, the provisions of article 26 of the covenant in order that he may realize, just as I thought I realized when I read the utterances of ex-Senator Root, of New York, the utter fallacy of the suggestion of the plan he proposed last night to the Republican convention in New York. Will the Senator pardon me if I occupy his time to that extent?

Mr. WALSH of Montana. I gladly yield to the Senator.

Mr. JOHNSON of California. The Senator will recall Mr. Root's denunciation of article 10, a denunciation as vitriolic and more forceful perhaps than that of the most implacable foe of article 10 upon this floor. The Senator will recall that he said after that denunciation that this league represented no rule of right but merely a rule of expediency. I do not quote exactly, but the substance of what he said. Of course if it does not deal with a rule of right, no right-thinking American would want to join it. But then he says, "Join, but the instant you elect a Republican President, on the 5th of March, re-form your league, rewrite it, transmute it into what it is not to-day, and into what it is not made even by reservations." Now, reform it, amend it, transmute it, how? Under article 26, the only method in the league covenant, and article 26 provides:

> Amendments to this covenant will take effect when ratified by the members of the league whose representatives compose the council and by a majority of the members of the league whose representatives compose the assembly.

That is, your council must unanimously recommend and approve your amendment. What chance would there be after you enter this thing so denounced by Mr. Root to transmute it, reform it, and amend it on the 5th day of March, 1921?

Of course, the Senator from Montana will answer, "No chance at all." Therefore I say the advice of Mr. Root is like the advice of some distinguished gentlemen in Europe—"get into this league, pull America into it, and once you are in you never are going to get out except by the possibility of your right of withdrawal under your Lodge reservation." You will be in it, you can not amend it, you can not transmute it, you can not re-form it. You are there and you stay under the direction and under the control and under the tutelage and under the command of European and Asiatic diplomacy. I say, therefore, that ex-Senator Root is wrong in what he suggests. I do not follow him, intellectually or otherwise, as a leader, I will say to the Senator from Montana.

Mr. LODGE. May I ask the Senator from California a question?

Mr. WALSH of Montana. Certainly; I yield for that purpose.

Mr. LODGE. In describing the method of amendment, the Senator from California has stated that those amendments have to be agreed to by the members of the league, not by the representatives of the league, but by members of the league, by the Governments.

Mr. JOHNSON of California. Yes; which makes it all the more difficult.

Mr. LODGE. Exactly; it makes it practically impossible.

Mr. JOHNSON of California. It makes it practically impossible to amend the league. Ex-Senator Root in the last analysis says: "Go into a thing that is wrong, go into a thing that does not deal with a rule of right at all, go into a thing that does a wrong, that almost commits a crime against your country, and on the 5th of March, 1921, amend it," when you can not amend it at all.

Mr. COLT. Mr. President——

Mr. WALSH of Montana. I yield to the Senator from Rhode Island.

Mr. COLT. I should like to say a word as to what I understand to be Mr. Root's position as outlined in his letter to Chairman Hays and in his letter to the Senator from Massachusetts [Mr. LODGE] and in his New York address.

Mr. Root has always favored the league with reservations. Mr. Root's objection to the league lay in the line of compulsory arbitration instead of voluntary arbitration. Mr. Root's position was that the purpose of the league is to prevent war. The purpose of the league therefore is to settle by arbitration the causes or the disputes which lead to war. Mr. Root says that three-quarters of the disputes which lead to war are the subject of arbitration, are justiciable and not political.

Mr. Root's objection was that the covenant permitted a nation to choose whether a dispute was the subject of arbitration or was not the subject of arbitration; hence that nation could say that the dispute was not a subject of arbitration, and would, therefore, leave it to the council for investigation and report.

Now, the objection to the council, as I understand, according to Mr. Root's view, is that the council is not a judicial body; that it would decide questions according to expediency; and

hence that the league as now framed would permit all questions of dispute to be determined not by a judicial tribunal but by the council and upon grounds of expediency.

Mr. Root would have had a provision in the covenant that all matters in dispute which were justiciable must be submitted to a court to decide. He would determine by law what disputes were justiciable and what were not justiciable. The covenant as it now stands enumerates the disputes that are justiciable, but it does not oblige the nation to submit any dispute to a court for final judicial determination. That was Mr. Root's fundamental objection to the league. He would start where the second Hague tribunal left off, and where he did a great work in framing an international judicial court, and he would have an international judicial court created where three-quarters of the disputes must be settled finally by an international judicial tribunal, therefore leaving perhaps one-quarter of the disputes—most dangerous disputes though they may be, political issues—to be determined or to be investigated and passed upon by the council.

Mr. Root has always indorsed this league, with reservations guarding the Monroe doctrine and American interests, but he would have amended it so that we should have an international judicial tribunal which would finally determine, as a matter of law and public right, disputes between nations, instead of having those disputes referred to the council for investigation and report.

Mr. BRANDEGEE. Did he not also at one time advise breaking the heart of the world by striking out article 10 entirely?

Mr. COLT. Mr. Root, in his letter to Mr. Hays, was in favor of reaining article 10 for the period of five years. Why? Because he thought that in this World War we had upset the world, and that the responsibility should fall upon the United States, for a few years at least, to protect the territorial boundaries and political independence of nations as settled by the peace conference. Upon further reflection, two or three months afterwards, he reached the conclusion—which I believe is the conclusion of the American people and of almost everyone who has reflected upon the subject—that we should assume no contractual obligations under article 10 to preserve the territorial boundaries or political independence of the members of the league against external aggression.

Mr. Root says that the league is fundamentally to settle disputes by law and not by force, that article 10 does not properly belong in the covenant, and that it imposes a responsibility which the United States should not assume by way of contract.

Mr. WALSH of Montana. I understand the remarks of the Senator from California [Mr. JOHNSON] precipitate a controversy between himself and the distinguished ex-Senator from the State of New York rather than between the Senator from California and myself; but I feel quite at liberty to say that in my opinion there is no serious obstacle to securing, in the manner provided in the covenant, the amendment which Mr. Root contemplates seeking. His position has been very accurately stated by the Senator from Rhode Island [Mr. COLT]. What Mr. Root desires is some amendment which will provide for the establishment of an international court and for fixing the rules of international law by which it shall be guided. I have no doubt that unanimity even can be secured for amendments of that character. To elucidate his hopes, I read from his letter to Mr. Hays, as follows:

> The first change which I should make in this agreement accordingly would be to give effectiveness to the judicial settlement of international disputes——

Mr. JOHNSON of California. Mr. President, will the Senator permit an inquiry? I simply wish to know from what the Senator is reading.

Mr. WALSH of Montana. I read from Mr. Root's letter to Mr. Hays.

Mr. JOHNSON of California. That is the original letter where he favored article 10?

Mr. WALSH of Montana. Yes; it is the original letter to Mr. Hays.

Mr. JOHNSON of California. That is where he favored article 10?

Mr. WALSH of Montana. What I read has nothing to do with article 10, but he did favor the retention of article 10, as stated by the Senator from Rhode Island [Mr. COLT], for a period of five years. I am trying to indicate exactly the character of amendment which Mr. Root expects to accomplish by the conference which he contemplates shall be called after a Republican President is inaugurated on the 4th of March, 1921. He says:

> The first change which I should make in this agreement accordingly would be to give effectiveness to the judicial settlement of international disputes upon questions of right—upon justiciable or judicial questions—by making the arbitration of such questions obligatory under the system established by The Hague conference, or before the proposed court of arbitral justice, or, if the parties prefer in any particular case, before some specially constituted tribunal; putting the whole world upon the same footing in that respect that has been created between the United States and practically every nation now represented in Paris, by means of the special treaties which we have made with them. The term "justiciable questions" should be carefully defined, so as to exclude all questions of policy, and to describe the same kind of questions the Supreme Court of the United States has been deciding for more than a century.
>
> When that is done, the reference to arbitration in article 12 will have some force and effect instead of being as it is now a mere idle form.
>
> The second change which I think should be made is to provide for a general conference followed by regular conferences at stated intervals to discuss, agree upon, and state in authentic form the rules of international law, so that the development of law may go on, and arbitral tribunals may have continually a more perfect system of rules of right conduct to apply in their decisions.

That very clearly discloses the character of work that Mr. Root desires to confide to this new conference.

Mr. JOHNSON of California. Will the Senator yield to me?

Mr. WALSH. I yield to the Senator from California.

Mr. JOHNSON of California. I have no desire to indulge in any controversy with ex-Senator Root or anybody else other than that which I have suggested in my article of last evening in the newspapers, but in the interest of historical accuracy I desire to repeat that the letter which has just been read by the Senator from Montana was substantially the first utterance of Mr. Root upon this question. In his first letter, Mr. Root substantially approved of article 10, with the right of withdrawal from that article after, I think, a period of five years. Am I correct in that?

Mr. WALSH of Montana. That is my recollection.

Mr. JOHNSON of California. In the second letter that Mr. Root wrote, which is dated June 19, 1919, and addressed to Senator LODGE, we find, however, that his views concerning article 10 materially changed. In that letter he said:

> You can, however, put into the resolution of consent a reservation refusing to agree to article 10, and I think you should do so.

Then, in his statement night before last, in relation to article 10, we find he said:

> The reservations adopted by the Senate remedy, so far as the United States is concerned, the chief objections to the treaty. They prevent our entrance into the League of Nations from being an abandonment of the Monroe doctrine, with irreparable injury to the United States and no benefit to the rest of the world. Especially important is it that they prevent the incredible mistake of article 10.

These varying expressions make Mr. Root's views neither conclusive nor persuasive with me.

Mr. WALSH, of Montana. Mr. President, I conclude by calling attention to the fact that Mr. Root very accurately foreshadowed the resolution which was adopted by the Republican convention of the State of New York on the subject of the treaty. That resolution provides:

> We favor the immediate ratification of the pending treaty of peace with such distinct reservations and declarations as shall make it clear to all the world that the United States retains its unconditional rights to withdraw from the League of Nations on proper notice.

Then follows a general description of the other provisions of the so-called Lodge reservations. I emphasize that apparently there is going to be no question presented to the people of the United States at the next election as to whether we shall ratify the treaty or shall not ratify the treaty. Apparently this issue, should the present attempt to secure the approval of the Senate fail, is to be, Shall we ratify the treaty with the Lodge reservations, or shall we ratify the treaty without the reservations, or with the Hitchcock interpretative reservations?

Mr. President, I want to add that there is another plank in the New York platform which has some relevancy to the matter upon which I addressed the Senate this morning, namely, the investigation by the Interstate Commerce Committee of the Senate of the Federal Trade Commission. Apparently that body is not in high favor with the Republican organization of the State of New York. Of it the platform says:

> We charge that the Federal Trade Commission as at present constituted has dellberately prostituted its proper function. It has persecuted trade instead of promoting trade.

It is not altogether clear, Mr. President, whether that is intended as a denunciation of the law under which the Federal Trade Commission was organized or whether it is simply a denunciation of the personnel of the commission, to be reformed, of course, when a Republican President has the power of appointing its members. I content myself with the remark that if it is a denunciation of the law, it is the only law, so far as I know, passed during seven years of Democratic administration that as yet has met with the disapprobation of any gathering of Republicans, a record that is, perhaps, without a parallel in the history of the Republic.

Mr. SMITH of Georgia. Mr. President, it is exceedingly interesting to contemplate the possible platforms that might be developed for candidates and parties out of the covenant of the

League of Nations, but I am more interested in getting a vote on the reservations than I am in discussing possible party platforms.

As to the reservations now before the Senate, I cordially approve of the provision that leaves it to the two Houses, and a majority of each, to declare that we shall exercise our privilege of withdrawing from the league. I am not particular about giving the President the power also, though I am very particular about not allowing the President to veto the action of a majority of the two Houses of Congress and force us to obtain a two-thirds vote in order to give the requisite notice. I am perfectly willing for the President also to have the right, because, as this is a plunge into the unknown, I do not object to facilities for getting out if any well-established authority or high official of real responsibility wishes to take us out.

However, I discussed this subject when it was previously under consideration. I have no doubt about the constitutionality of the provision that permits us to withdraw by the action of a majority of each House. I discussed that question last November, and shall not now repeat what I then said in support of the constitutionality of a similar provision. I am more interested in reaching a vote on the pending reservation, and however pleasant it would be for me to enter into a constitutional discussion on the subject, I simply cite what I once before said instead of repeating it.

I hope we may come to a vote, and, unless some Senator wishes to move to strike out the privilege to the President of giving a notice, I hope we shall adopt the proposed reservation.

The PRESIDENT pro tempore. The question is upon the amendment proposed by the Senator from Massachusetts [Mr. LODGE] to reservation No. 1.

Mr. HITCHCOCK. Mr. President, I move to amend the original text so as to strike out the word "concurrent" and to insert the word "joint," so that it will read:

> Notice of withdrawal by the United States may be given by a joint resolution of the Congress of the United States.

Mr. LODGE. Mr. President, my amendment to the reservation is pending, I think.

The PRESIDENT pro tempore. The Chair is advised that the yeas and nays have been ordered upon the amendment to the reservation offered by the Senator from Massachusetts.

Mr. HITCHCOCK. But, Mr. President, as I understand the rules of the Senate, in all cases of a motion to strike out and insert——

Mr. LODGE. My motion is not a motion to strike out and insert, but is a motion to amend.

Mr. HITCHCOCK. It is a motion to strike out "a concurrent resolution" and insert certain other words. It appears in the form of a motion to strike out and insert.

Mr. LODGE. It is not a motion to strike out and insert, for it leaves the whole text, except for a few words, practically untouched.

Mr. HITCHCOCK. The Senator proposes to strike out the words "a concurrent resolution of the" and to insert the words "the President or by," and also to strike out the words "of the United States" and insert "alone whenever a majority of both Houses may deem it necessary." That is clearly a motion to strike out and insert, and under Rule XVIII——

Mr. LODGE. Yes; I know what the rule is.

Mr. HITCHCOCK. It is perfectly competent to perfect the original text before the motion to strike out and insert is voted upon.

Mr. LODGE. Mr. President, a motion to strike out and insert would cover the whole reservation. The Senator is not trying to perfect my amendment nor is he trying to perfect the text; he is offering an entirely independent amendment.

The PRESIDENT pro tempore. The Chair is of the opinion that when the yeas and nays have been ordered upon a particular question a further amendment is not in order unless the order for the yeas and nays is vacated.

Mr. HITCHCOCK. Mr. President, I am not aware that the yeas and nays have been ordered; I have not so understood; but I trust the Senator from Massachusetts will not prevent, by any parliamentary ruling, a fair opportunity to vote upon this amendment. I have proceeded on the theory that this question would be subject to the same rules as any matter before the Senate, so that when a motion is made to strike out and insert Senators would be privileged to perfect the original text or to amend the matter proposed to be inserted. I can not very well——

Mr. LODGE. The Senator's proposition is to substitute the word "joint" for the words "the President or by Congress alone whenever a majority of both Houses may deem it necessary."

Mr. HITCHCOCK. No; my motion is to substitute the word "joint" for the word "concurrent" in the original text.

That which I have read is my amendment.

I am proceeding on the theory, Mr. President, that the Senator has moved to strike out certain words and insert others; and what I want to do, before that is voted on, is to secure the opportunity to vote upon perfecting the original text. Then, if that is defeated, the question will naturally recur upon the motion made by the Senator from Massachusetts.

Mr. LODGE. Of course, the Senator's amendment to strike out the word "concurrent" and insert the word "joint" does not touch my amendment at all.

Mr. HITCHCOCK. If my motion should be defeated, the Senator's amendment would come up as a matter of course.

Mr. LODGE. Absolutely; but I do not think the Senator's amendment is a perfecting amendment. I am not proposing to strike out the whole of the reservation; I am only proposing to strike out certain words.

Mr. HITCHCOCK. The Senator is moving to strike out certain words. Before those words are stricken out, it seems to me that, under the practice of the Senate, we are entitled to have voted upon a motion to perfect the original text. This is a report of a committee; and how else can we have the opportunity of getting before the Senate a vote upon this proposition?

Mr. LODGE. Mr. President, of course what I want is a vote on my amendment. If that is voted down, it will be open to the Senator to make his motion.

Mr. HITCHCOCK. But if it should not be voted down we will have no way in which we can go on record upon this proposition. It has been the quite invariable custom here in the Senate, where a motion to strike out and insert is made, to give the privilege of perfecting the original text or of perfecting the pending amendment.

Mr. LODGE. I know that; but I do not think that this is that case. I do not think this case is covered by that practice. I shall not, however, make any objection if the Senator subsequently wishes to move to insert the word "joint."

Mr. HITCHCOCK. I think it would be out of order for me to do that after the amendment offered by the Senator from Massachusetts is adopted. I think it would be out of order to offer any amendment to it.

Mr. LODGE. I have no objection. I do not want to prevent any vote on a mere technicality. I do not think this is a technicality. I think we ought to have a vote on both amendments.

Mr. HITCHCOCK. Then I ask unanimous consent that we first vote upon the question of inserting the word "joint" in place of the word "concurrent" in the original text.

Mr. FRANCE. Mr. President, I call for the regular order.

Mr. HITCHCOCK. Then I insist upon my proposition that we are entitled to an opportunity to present amendments to the original text before the motion to strike out and insert is put; and I cite the President pro tempore to the last part of Rule XVIII, which provides that—

> Motions to amend the part to be stricken out shall have precedence.

Mr. WALSH of Montana. Mr. President, I have here a reference to a precedent upon the point made by the Chair that the amendment is not in order, the yeas and nays having been ordered. I interpret this precedent to permit the submission of any amendment going to perfect the text which the amendment proposes to strike out.

The PRESIDENT pro tempore. The Chair is not advised as to the form in which the amendment has been presented by the Senator from Massachusetts, not having been in the chair at the time his amendment was proposed. The Chair finds that the proposal by the Senator from Massachusetts is as follows:

> Amendment proposed by Mr. LODGE to the reservations to the treaty of peace with Germany, viz: Amend reservation No. 1 so that it will read as follows.

Then there follows the entire reservation.

The Senator from Nebraska proposes now to strike out the word "concurrent" and substitute for it the word "joint." In the opinion of the Chair, it is an amendment proposing to perfect the text, and is therefore in order.

Mr. HITCHCOCK. On my amendment I ask for the yeas and nays.

The PRESIDENT pro tempore. The question is on the motion of the Senator from Nebraska to strike out the word "concurrent" and insert the word "joint."

Mr. LODGE. I make the point of no quorum.

The PRESIDENT pro tempore. The Secretary will call the roll.

The roll was called, and the following Senators answered to their names:

Ashurst	Fletcher	King	Nugent
Ball	France	Knox	Overman
Brandegee	Gay	Lenroot	Page
Capper	Henderson	Lodge	Poindexter
Chamberlain	Hitchcock	McKellar	Robinson
Colt	Johnson, Calif.	McNary	Sheppard
Culberson	Johnson, S. Dak.	Moses	Simmons
Cummins	Jones, N. Mex.	Myers	Smoot
Curtis	Kellogg	Nelson	Thomas
Dial	Kenyon	New	Walsh, Mont.
Fernald	Keyes	Norris	Warren

Mr. McKELLAR. I wish to announce that the Senator from Rhode Island [Mr. GERRY] and the Senator from Mississippi [Mr. WILLIAMS] are detained from the Senate by illness.

The Senator from Massachusetts [Mr. WALSH] is detained by the illness of a member of his family.

The Senator from Delaware [Mr. WOLCOTT], the Senator from Kentucky [Mr. STANLEY], the Senator from Maryland [Mr. SMITH], and the Senator from Ohio [Mr. POMERENE] are absent on public business.

The Senator from Missouri [Mr. REED] is necessarily absent.

The PRESIDENT pro tempore. Forty-four Senators have answered to their names. There is not a quorum present. The Secretary will call the names of the absent Members.

The names of the absent Senators were called, and Mr. DILLINGHAM, Mr. ELKINS, Mr. HALE, Mr. HARRISON, Mr. KENDRICKS, Mr. SHIELDS, Mr. SMITH of Georgia, Mr. STERLING, and Mr. TRAMMELL answered to their names when called.

Mr. McLEAN, Mr. FRELINGHUYSEN, Mr. SPENCER, Mr. KIRBY, Mr. EDGE, Mr. JONES of Washington, Mr. HARRIS, Mr. WATSON, Mr. PITTMAN, Mr. BECKHAM, Mr. PHIPPS, Mr. TOWNSEND, and Mr. PHELAN entered the Chamber and answered to their names.

The PRESIDENT pro tempore. Sixty-six Senators have answered to their names. There is a quorum present.

Mr. BRANDEGEE. Mr. President, as appears on page 8803 of the CONGRESSIONAL RECORD of November 19, 1919, the Senate rejected the resolution of ratification offered by the Senator from Alabama [Mr. UNDERWOOD] to ratify the treaty as it stood, without any reservations or amendments, by a vote of 38 to 53, every Democrat who voted voting for it except the Senator from Missouri [Mr. REED], the Senator from Tennessee [Mr. SHIELDS], the Senator from Georgia [Mr. SMITH], the Senator from Colorado [Mr. THOMAS], the Senator from Florida [Mr. TRAMMELL], and the Senator from Massachusetts [Mr. WALSH], and one Republican voting for it, the Senator from North Dakota [Mr. McCUMBER]. On the resolution of ratification proposed by the Senator from Massachusetts [Mr. LODGE], the resolution of ratification was rejected by a vote of 39 to 55; so that the attempt to ratify the treaty was rejected by the Senate both with reservations and without them.

If that treaty was not rejected, it never can be rejected. Is it so that any treaty that is presented here must be ratified, whether two-thirds of the Senate agree to it or not? How can the Senate reject a treaty if it has not rejected that treaty?

The Senator from Massachusetts [Mr. LODGE] appeared here a few days ago and, although he was not in the vote of the House, moved to reconsider the action of the Senate. A point of order was made that he was not in the vote of the House, and therefore was ineligible to make the motion, and the point of order was overruled by the Chair, although it is a clear rule of parliamentary law. Now we are dealing with this matter, if we are dealing with it at all, in a totally irregular and unwarranted way. The treaty stood rejected. We can only act on a treaty by resolution. All sorts of resolutions to ratify the treaty were voted down. The Chair announced in each case that they had been rejected for lack of a two-thirds vote. The Senator from Massachusetts announced to the Senate that the treaty was dead. Before that he notified the Democrats that if they voted against his reservations the treaty was dead. The Democrats to whom I have referred received a letter from the President stating that the reservations adopted by the Senate nullified the treaty and advised them to kill it, which they did. It seems that the only thing that does not stay dead when it is dead is a treaty, especially if it is to involve the United States in Europe, Asia, and Africa against the will of the people of the United States. It has more lives than a cat.

Mr. President, the Senate, after months of debate in a dignified way and in a constitutional way, adopted what are known as the Lodge reservations. They were the reservations agreed upon and recommended by the Committee on Foreign Relations of this body. The chairman of the committee, the Senator from Massachusetts [Mr. LODGE], was instructed by the committee to report them and to advocate them. He did so; and the Senate agreed with him and with the committee and made them its action. Then, under the rule of the Senate, they were incorporated in the resolution of ratification, and the resolution was rejected. That action became the action of the Senate of the United States in the eyes of all the world. Every foreign power took notice of it. All the world knew that the United States Senate had determined upon its line of policy. Lord Grey, who had been here looking over the situation for several months, went home and wrote a letter to the London Times in which he stated that any European power that dealt with the United States hereafter was put upon notice that it must deal with it upon the terms prescribed by the Senate of the United States in those Lodge reservations. They were the solemn, deliberate announcement by this body of the foreign policy of the United States. They were the conditions upon which we were to do business with Europe; and everybody knows they are the conditions upon which Europe will have to transact business with us if we enter any such thing as this proposed League of Nations.

Now, without any further action of the Committee on Foreign Relations, the Senator from Massachusetts, having under the ruling of the Chair gotten this matter before the Senate again, proceeds to offer amendments—not the committee amendments—proceeds to try to modify the well-considered and deliberate action of the Senate taken by a majority vote after due debate upon each and every reservation. I do not know how many more modifications there are. If the Senate believed in those reservations then, why does it not stand for them now? Are we going to get anywhere by proceeding to pull to pieces the reservations that the Senate adopted, and that have been taken notice of by Europe, and that they say they are ready to accept? If we believe in them, and they are ready to accept them, what is all this talk about compromising worth? What is all this talk about compromise anyway? Whom are we compromising with but with ourselves? Is anybody talking about the President compromising? Not on your life! He stands pat. He, at least, knows his mind. He probably has some principle about his attitude. He has some conviction about it. He wrote a letter to be read at the Jackson Day dinner, saying that he would not accept these reservations. Will the Senate stand by its own action?

If the President should come to the Senate, his partner in the treaty-making business, and say, "Here, we differ about this thing; let us compromise it," that would be one thing. That has not happened, and will not happen. But here a majority of the Senate, having expressed its will in a constitutional manner, is approached by the minority of the Senate and told, "Here, we have been beaten about this thing. Now, let us compromise. You give us half of what you won." What is the quid pro quo? Where does the compromise come in?

I have a fight with a fellow as to the ownership and possession of a box of oranges, and I thrash him, and I am walking away with my box of oranges, and the loser comes up to me and says, "I will compromise with you for half of them." I may be obtuse, Mr. President, but I have some sort of Yankee notion about trading, and I do not see what I get out of that kind of a trade.

Here we are frittering away time about a lot of irrelevant and immaterial little verbal modifications of some very essential things. Everybody knows that they do not amount to anything except to render the Senate ridiculous if it proceeds to strike out and insert words merely for the purpose of finding synonyms for the words already in the reservations. Everybody can take these 14 reservations and express them in different forms of words. There is not one of them but that any Senator on this floor can twist around and re-form so as to mean exactly the same thing, and use some different words in doing so. Has it come to that, that the Senate wants to present that kind of a spectacle to the world? Everybody knows that this is nothing but leather and prunella. It is nothing but a vain performance and a sham. Somebody is trying to commit a fraud, to perpetrate a deception upon somebody. That is all there is to it.

Everybody knows that it does not make any difference how many different words you use to express the same idea, or how much you change the great majority of these reservations in minor details. There are two cruxes in this situation, and everybody admits that they will not be changed. We are not going to sell the Monroe doctrine to Europe, nor to abandon it, and we are not going to assume one iota of the obligations of article 10—not a scintilla. You may as well face that right now. I suppose it is thought to be good strategy to make as many changes as possible in these sine qua nons and these reservations in the hope that the Senate will get in a changing mood and will not know when to stop. Well, they will know all right, Mr. President. The Senate may not be such an intelligent body as it used to be, but I take the liberty of prophesying that it will know when a change is proposed in the substance of article 10.

The Senator from Nebraska [Mr. HITCHCOCK], who has been perfectly frank about this matter, so far as I know, in his utterances of what went on in this unofficial tentative compromising assembly which was engineered and the proceedings of which were kept secret, stated openly to the newspapers right straight along that you could not fool him, that there had to be a real substantial concession in the reservation to article 10, or else there would be no agreement whatever to ratify the treaty. I think very likely he is right.

Are we going to make a real substantial concession in the reservation to article 10? No; we are not, and everybody knows it. The Senator from Nebraska knows it. Why prolong this autopsy, Mr. President? It can not be for the mere physical delight of pawing over the remains. We might just as well order the disinfectant now and get this ghastly sight out of the way. Everybody knows that we are not going to put this country into this foreign League of Nations except with the reservations that the Senate put on it. If the advocates of the ratification of the treaty want to accept those reservations they can accept them, and if they are afraid of the responsibility of saving their country they can put it up to the President. If he thinks he wants to strangle his own child and has the courage to do it, he can refuse to file the instrument of ratification. Everybody will then know exactly who did it. On the contrary, if he wants to accept the Lodge reservations he can have a chance to do so.

So far as I am concerned, Mr. President, the reservations that the Senate has already adopted are good enough for me. I voted for them once. I shall vote for them again if I have a chance.

The only inconsistency or apparent inconsistency in which I find myself on the first proposed compromise modification to the irreducible minimum is that it happens to be one that will enable us to get out of this thing more easily if we are ever trapped into it, and therefore I have a certain sort of respect for it and a certain desire to vote for it. I would vote to give the doorkeeper the right to withdraw us from the league. So I rather dislike to vote against this because it gives more people the right to get us out if we ever should get in, but I feel that it would not be consistent with my attitude as a member of the Committee on Foreign Relations that voted for the reservations as they stand, which the Senate has made its own by its action, and having succeeded in persuading the Senate that what the Foreign Relations Committee recommended to it was wise and good, I do not want to proceed to tear it down now. This process, if it is to go on, must be continued by others than myself. Therefore I for one shall vote against any proposed modification put forward under the fraudulent name of a compromise.

Mr. LODGE. Mr. President, I had something to do with the drafting of these reservations. I voted for them and I voted to ratify with them. I think I am as much interested in them and in their preservation, as far as the personal part of it goes, as almost anyone.

In stating what has happened parliamentarily the Senator from Connecticut [Mr. BRANDEGEE] omitted one incident, and that was the suspension of Rule XIII. The treaty was rejected by the Senate both without any reservations and with the reservations that happen to bear my name. Unfortunately we did not have a majority which would have enabled us to send that action of the Senate to the President. The treaty remained here.

Last November, on the 18th, it was stated by me that if there were any modifications which the other side desired to propose we should be glad to receive them if they were presented before the next day when the vote was to come. None were presented and we went to the vote.

After Congress came together again I stated more than once that if the minority on the reservations desired to present modifications, of course we would listen to them and consider them. I said that in the Senate and I said it in the press. Some weeks passed and finally I was asked by a Democratic Senator to meet certain other Democratic Senators and discuss modifications which they wished to suggest, and I and three other Republican Senators met with them.

Mr. President, I did not feel then and I do not feel now that I would have been justified either in my own opinion or in the opinion of the country if I had simply slammed the door in the face of the Senators who desired to suggest modifications and had stated that we would not even listen to them. We did listen to them. We talked the propositions over for several days. I took occasion to make a public statement that we were ready to make changes in phraseology, but that there were certain questions of principle on which there could be no change, and to that position I at least have adhered.

The country I believe desired action. The country, I also believe, by a very overwhelming majority, practically almost unanimously, were against the ratification of the treaty without reservations, and by an overwhelming majority were in favor of ratifying the treaty with reservations.

My endeavor was, as I have sought all along, to ratify the treaty with reservations that I considered would protect the United States. To make another effort in that direction I therefore took the only course which was open to me to bring the treaty again before the Senate. The treaty was still lying here. I moved to suspend Rule XIII. By suspending that rule against reconsideration it was then open to me to move to reconsider the last vote taken. That was the vote on the motion which I made to lay upon the table the motion to reconsider.

I made the motion to reconsider. I was entitled to make it because I voted with the prevailing side; and I also was entitled to make it because Rule XIII had been suspended—the whole rule. If Senators will take the trouble to read that rule they will see that it suspends everything connected with the rule relating to reconsideration. In that way I brought the treaty back and I believe I did it correctly and in a parliamentary way.

The bipartisan conference, as it was called, broke off on the two reservations comprising the Monroe doctrine and article 10, on which we declined to make any change involving a principle, and so far as the bipartisan conference goes that remains now as it did then.

Then on my own responsibility, not in behalf of the committee, I printed and offered certain changes which I proposed in the reservations as they stood. Most of those changes are changes of phraseology. Three of them are changes which I think ought to have been made in the reservations originally. Personally I was never satisfied with the manner in which we provided for the assent of other powers in what is known as the preamble, but it is really the resolving resolution.

I also thought that article 14 needed perfecting; that it was deficient. I also felt that the first reservation as it stood did not carry out the intention of the Senate when it put it on by a majority vote.

Mr. HITCHCOCK. When the Senator refers to article 14 he means reservation 14?

Mr. LODGE. I meant reservation 14. I thank the Senator.

Those are substantive changes which I should have liked to have made on the 19th of November if I had had the opportunity. The others were changes in phraseology; they seemed to me unimportant. I have mentioned the three that seemed important. The others seemed to me unimportant, but if they would serve by a simple change of phraseology to enable us to ratify the treaty in the Senate and put the responsibility for further action upon where it belongs I was ready to do it.

Mr. President, the changes which I have proposed are before the Senate. I think I am as much attached to them even as those who voted against them when it came to the question of ratification. I think I am as desirous of keeping them as they are. They have acquired a sanctity with some of my friends which they did not have, I think, until after the 19th of November. But there they are. If they will help us to ratify the treaty, I am willing to support them, but further I can not go. I can never assent to any change in principle in the two reservations relating to the Monroe doctrine and article 10. The purpose of article 10 is to free the United States from any obligation whatever of any name or nature, and if it is less than that—I can only speak for myself—I can not vote for it. I say the same of the Monroe doctrine. But if by adopting the other reservations which are proposed, some of which I regard as improvements, we can secure a two-thirds vote of the Senate, I should be glad to do it and get it out of the way.

It is going to be in the campaign, as the Senator from Idaho [Mr. BORAH] said yesterday. No matter what we do, we are not going to take it out of the campaign. How idle it is to think that it is coming out of the campaign. Here is the convention of the great State of New York which has met and put in elaborate statements in regard to it. That will be the position of the Republican Party when it meets in Chicago, in my judgment. We are not going to get it out of the campaign. I should like to have the Senate dispose of it if I can. If I can not, if Senators on the other side are going to insist that there shall be a substantial change in article 10 or a substantial change on the Monroe doctrine, we can save the time of the Senate by settling that now and dropping it, and letting it lie here as it has lain before, in a state of semianimation.

That, Mr. President, has been what I have tried to do, and tried honestly to do, and I am ready to go on and make the effort, but I think it only fair to the country and to the Senate to have it understood that the votes are not here to ratify the treaty with substantial changes in article 10 and on the Monroe doctrine.

Mr. ASHURST. Mr. President, from my viewpoint the Senator from Massachusetts [Mr. LODGE] has political sins for which he should be called to answer, but his manful and successful attempt to bring the peace treaty again before the Senate is not a political sin for which he will have to answer. He acted the part of the statesman in trying to bring the treaty to life.

I am supposed to be a politician; and, indeed, I am, or I would not be here. I say to my brother Senators that when you lose the art of being a politician you will also lose your seat in the Senate.

This is a political Republic, governed by political parties. The Constitution when framed made no reference to political parties, but they grew and developed, and they will exist here because of the very logic of events and the necessity of the occasions. Men die; they pass away; their voices are silenced; but a vital principle should live on, and it can only be galvanized into an actuality by a political party. The individual does not live long enough; he has not the strength to address the necessary people in the course of an ordinary lifetime to bring about a reform in a government of this extent except through a political party.

I have heard considerable animadversion from the Senator from Connecticut [Mr. BRANDEGEE], my learned friend to whom I always listen with delight, upon men who change their minds. I hold no brief for the President of the United States. He is well able to take care of himself. He has not forced me into supporting the treaty; he has forced nobody; but I respectfully assert that he is the only man in the United States that can not change his mind on this treaty until we act. He put his name, in the presence of his fellow workers, to a solemn treaty. How ridiculous, how foolish, for him now to begin "dickering" and bargaining with the Senate and to say, "Make certain changes and I will try to compromise with our allies."

The President of the United States, I repeat, as I said on the 23d of January, will be the most delighted individual that ever sat in the presidential chair when we announce to him that we are able to do something on this treaty without asking his nod of approval. Men respect you in this world only in so far as you respect yourself. The President did his duty as he saw it, and I believe no more conscientious man ever existed in any particular work than he was when he was doing that duty. He believed what he was doing was right. Let the Senate, therefore, express itself and ratify the treaty in some form so that he may have a chance again to make some diplomatic stroke that will begin to let our country liquidate the Great War.

Change our minds? Certainly we change our minds. Are we going to remain static and fixed in spite of everything? "If we restrain our necessary action for fear of being laughed at, or carped at, we shall take root here where we sit or sit staid statues only."

I knew a man, one of the greatest men the Southwest ever produced, who boasted throughout the Pacific coast that he never changed his mind. He took a journey into the mountains. He was a botanist and naturalist. On that journey he discovered on the mountain top a red berry which he ate, a cool, refreshing, delicious, sweet berry. He announced he was going to have the bushes transplanted to the valley where he lived and declared he would send some samples to his friends that they might partake of that cool, sweet, refreshing, delicious berry. Inside of four hours he was prostrate upon a bed of pain. Physicians were sent for, a trained nurse was sent for, and for two weeks that man who boasted that he never changed his mind hovered between life and death from the effects of that berry so sweet and delicious to the taste. Through the efforts of his physicians he finally regained his strength.

He changed his mind about the berry, Mr. President. He concluded that he would not advise his friends to eat of it; that he would not ask them to grow it upon their own farms and vineyards for their own use; but he made another discovery, for he found that the use of this berry had relieved him of a disease which for 20 years had fastened itself upon him, and that that berry was a specific for that disease. So he changed his mind about the berry the second time, Mr. President, and he did not ask that the berry be entirely banished from Pharmacopœia, but asked that the berry be retained therein. So here in the Senate and in all departments of life we change our minds when facts are presented justifying such action. We should act upon the situation as it presents itself to our views to-day.

Mr. MYERS. May I ask the Senator a question?

The PRESIDENT pro tempore. Does the Senator from Arizona yield to the Senator from Montana?

Mr. ASHURST. Certainly.

Mr. MYERS. I want to ask the Senator if he has been eating any of those berries? [Laughter.]

Mr. ASHURST. I prefer to regale myself on the oranges which the Senator from Connecticut did not get. If I do eat a berry and find that it is poisonous, I change my mind. If I later find that it is a medicine, I again change my mind. Therefore I commend the attitude of the Senator from Massachusetts, who sought again to bring the treaty before the Senate. Sir Oliver Lodge avers that he can bring back departed spirits, and I presume there is many a dry soul who wishes that he could [laughter]—and we should like to see Sir HENRY CABOT LODGE call the departed spirit of this treaty, because the American people are not now paying attention to politics. Talk candidates to them, and you get nowhere; talk principles, and audiences will listen.

Mr. THOMAS. Does the Senator find any analogy between the case of the Senator from Massachusetts, in reviving this treaty, and the proceedings of the other Mr. Lodge in summoning the spirits of the departed back to earth?

Mr. ASHURST. There may not be much analogy, and it may be that the work of one is as futile as that of the other, but I regard the attitude of Senator HENRY CABOT LODGE as much more commendable than that of Sir Oliver Lodge, because the Senator at least is within the domain of possibilities.

But now, Mr. President, abandoning facetiousness, let me say too many men throughout this country to-day are talking about their rights and not enough men are talking about duties; too many people are trying to make a fortune and not enough are trying to do their duty to their country.

Let me merely read some figures, which I put into the RECORD in January, about what the French people have done. They have, in round numbers, but one-third of the population of the United States. Their battle losses, as compared to ours, were enormous. Within one year after the armistice France filled in 74,000,000 cubic yards of excavated earth; France built 900 miles of double-track road that had been destroyed and blown up during the war; France rebuilt 90 per cent of her single-track road, or over 500 miles that had been blown up during the war; France had 1,100 bridges and tunnels destroyed during the war, and she has rebuilt 550 of them within a year after the armistice. She has built 60,000 stone houses and has 96,000 more in the process of reconstruction. She had 500,000 destroyed during the war. I have here other figures which I shall not take the trouble just now to read. France has demonstrated a resiliency, a bravery, and a courage in the arts of peace just as she demonstrated bravery and resiliency and courage in the war that were beyond the range of eulogy.

But here this great Senate is not able to ratify any kind of a peace treaty, because a large number of Senators, forsooth, want to ratify it only in the precise way the President thinks it should be ratified, and a large number of other Senators—"irreconcilables," so called—want no treaty at all. What are the facts? Eighty Senators want a treaty. There were roll calls which demonstrated on the 19th of last November that only 15 Senators opposed any kind of ratification. There were 38 Senators who were in favor of an unconditional ratification; that is, without amendments or reservations; there were 39 Senators who voted for the ratification of the treaty with the Lodge reservations; and, upon a reconsideration, 41 Senators voted for the ratification of the treaty with the Lodge reservations; and 41 Senators voted for the ratification of the treaty with the Hitchcock reservations.

I desire now to salute and pay my tribute of respect to the leader on this side of the Chamber, the Senator from Nebraska [Mr. HITCHCOCK]. He has with courage and prudence led this side. Let him now lead further and ask his fellow Democrats to vote their convictions and not the White House convictions. We shall then have a treaty ratified in 50 hours.

The White House! No man has a greater veneration for the work of Woodrow Wilson than have I. Senators, when we have left these seats forever, when the record of our time is gathered into history's golden urn and our voices are silent, when we are but forgotten dust, Woodrow Wilson's name will shine resplendently among the moral leaders of the world; he will go down into history as a moral leader whether his league fails or functions. Let us in these stirring times do something to convince the people that we also are attempting to be leaders and Senators worthy of a great Republic by not listening to what the White House says. We were not sworn to come here and, in the case of a treaty, do what the White House says. I am as good a Democrat as ever sat here, but I do not consider that it is a part and province of my Democratic duty to vote for the ratification of a treaty only when the White House says so. I repeat, if we will vote our own convictions instead of Woodrow

Wilson's convictions, we shall soon convince the people that we can meet responsibilities.

The Senator from Massachusetts takes an attitude that is unbecoming to him; he serves notice that with the Lodge resolutions is the way in which the treaty must be ratified. Does he also want to join the irreconcilables? Are we to have a White House irreconcilable and a Lodge irreconcilable and a set of irreconcilables fifteen in number?

There will be enough irreconcilables next election day. Senators keep talking about the elections. Are we so stupid and bereft of knowledge that we have forgotten that the way to win elections is to do our duty; that the way to win esteem is to do our duty? You can not convince the people that the Senate has done its duty when we remember that this treaty has been here since about the 10th or 12th day of July last.

Mr. Hoover is a man who, I think, will never be President. [Laughter.] He is a man whom I do not think my party will nominate, because he will not commit himself to either party; and no man is going to be President unless he is either a Democrat or a Republican. But let Mr. Hoover announce that he is a Republican and believes in the Republican Party, or let him announce that he is a Democrat and believes in the Democratic Party, and he will be the next President; not because he can write history, not because he has a pleasing personality, not because he is a politician, as I am and you are, but because he belongs to that rare and that valuable kind of men whose greatness is the arduous greatness of things done and not the greatness of things talked about. "Seest thou a man diligent in his business? He shall stand before kings"; meaning, of course, that any man who does the duty of the hour is the man who is made the king's servant.

Mr. FRANCE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Arizona yield to the Senator from Maryland?

Mr. ASHURST. I do.

Mr. FRANCE. In the remark which the Senator just made was he referring to the reduction of the high cost of living by Mr. Hoover?

Mr. ASHURST. I will say that I have not agreed with Mr. Hoover in all of his views. I am not very enthusiastic about Mr. Hoover as a Democratic candidate for the Presidency, because I do not feel sure that I favor a food dispenser to sit and preside at the pie counter; but Mr. Hoover performed more intelligent and more constructive work in the way of food conservation during the recent war than any other individual in the United States or in Europe.

I feel it is the duty of the Senate to act. Some Senators rend the air with their shoutings when they find a split infinitive. I am not going to be afraid to act or recalcitrant because I find a split infinitive here or there. I want constructive action.

Senators on the other side are in charge of this Congress. You have not made a good record. You have not had a complete chance as yet, for the book is not closed. I have not so much to brag about myself, but your record is poor. What have you done for the private soldier? You have treated him like a Chinese gambler; you have done nothing. Where is the soldiers' homestead bill? Where is the bill appropriating $250,000,000 for building the irrigation projects of the West? Yes; $250,000,000 is a tremendous sum, but it is just the amount of money that the United States has saved by preventing the sale of the ex-German ships. I want that to go out to the reclamationists of the West.

I repeat, you have not made a good record, but the books are still open, and I warn you now that if you think you are going to carry the next election by a traduction of Woodrow Wilson you will be sadly disappointed. The way for political parties to win victories that are enduring, and the way for men to win victories that are worth the winning, is to do something for the common people of this country.

I have read to you what France has done. That showing means that France, with one-third of the population of this country, has done more work than we have done. Ponder upon that! France, with one-third of our population, has done more work than we have done. While we have talked, they have worked. I ask the leadership on the other side to bring out the bill, not appropriating but lending $250,000,000 to the great, wonderful West to reduce the high cost of living, and we in the Western States will pay it back in 10 years. Bring out a bill showing the private soldier that you have remembered his services with gratitude and that you have refuted the statement that Republics are ungrateful. Pass those bills before you begin to talk about leadership or capitalizing Wilson's mistakes if he has made any.

Mr. President, I should not consume so much time, but I never felt more earnest about a situation than I feel now. This great Sanhedrin, the Senate, should have disposed of the treaty in one month, but here the treaty is before us and we make no forward move. We should be keeping pace with the hour. When Senators go out and face audiences they will be utterly amazed, they will be utterly paralyzed, to find that the Senate has been traduced all over the country because of the fact that, although 80 of us want some kind of a treaty, we have been unable to agree. I "speak by the book" when I say that Woodrow Wilson will be a delighted individual when we send this treaty back to him ratified in some form. Mark that. I say I speak by the book. I do not mean by that I have been told by anybody at the White House that he will be delighted to see this treaty out of the way; but is there a Senator here who would deny my statement? The President will be delighted to see us act, to see us function; he will be delighted to know that we can act upon occasions.

Now, let us face a few facts as they exist. The treaty as it came from Versailles can not be ratified. Whether it should be ratified or not in that form is beside the question; it can not be ratified in that form. What is the duty of this side, therefore? The duty of this side is to vote for such reservations or changes as will bring about the ratification of the treaty. I conceive it, accordingly, to be my duty to vote for reservations or amendments that will bring about an early ratification of the treaty.

The great European war sprang from an ultimatum which was delivered to Serbia. It may be that history never repeats herself; but I see portentous things on the horizon. An ultimatum was again delivered to Jugo-Slavia, greater Serbia, the other day, in which she was told by the premiers of Great Britain, France, and Italy that the treaty of London would be enforced and that Italy would be supported. That may look like a small matter, but just so it also looked small about the 25th or 26th day of July, 1914, when the previous ultimatum was delivered to Serbia. Yet here we sit, and although certain Governments in Europe are again beginning to serve ultimatums on other Governments, and the very Government that was overrun and to which the ultimatum was served in 1914 is receiving another ultimatum, we are not moved to action; we see no reason to hurry in our duty; we see no reason to perform our functions; we think there is no occasion for action.

We still remain at war with Germany and make no forward move, sleepy, somnolent, thinking only of politics, thinking only of what political prestige this party or that party is going to get out of the treaty.

I agree with all the statements that have been made to the effect that the treaty can not be kept out of politics; that it is going to get into politics; that, indeed, it is in politics now. But we can a least do this: We can ratify it and send it to the President. Then our responsibility has ended, our duty has been performed.

Mr. President, I am going to end these remarks with a story that I once read. I have forgotten where I read it, but it seems apropos. I have been trying to recall whether it was Addison or Macaulay who told the story. I think it was Addison, but if I am wrong the Senator from the center of culture and estheticism, the Senator from Massachusetts [Mr. LODGE], will correct me.

There was an upholsterer who kept a coach and servants, whose house furnished forth a good fare, and who was educating his family in accordance with the best traditions, but suddenly he conceived the idea that he could instruct people as to what ought to be done in Holland and what ought to be done in Prussia and what ought to be done in Russia, and he neglected his shop so completely, talking about what ought to be done in Holland and what ought to be done in Russia and in Prussia and in France, that his customers began to fall away. Still he lingered over his favorite theme of upholstering foreign nations, and instead of taking care of his own upholstering business in the way that he should, he insisted upon upholstering France, upholstering Prussia, and upholstering Russia. His customers continued to fall away, poor workmanship came out of his shop, and finally he found himself a bankrupt. The family coach and the family plate were sold; his eldest daughter, who was attending college, was required to come home; and his son was apprenticed out as an indentured servant to another man—all because he insisted upon upholstering Spain and Holland and Prussia and Russia and neglected his own affairs. Here we sit insisting upon upholstering Jugo-Slavia, insisting upon upholstering all of the foreign countries of the earth, and 110,000,000 of the best people on earth are entirely neglected by us. Let us begin now to take care of legislation for the American people and stop upholstering foreign nations.

The PRESIDENT pro tempore. The question is upon the amendment of the Senator from Nebraska [Mr. HITCHCOCK] to the amendment of the Senator from Massachusetts [Mr. LODGE].

Mr. HITCHCOCK. I should like to have it stated.

The PRESIDENT pro tempore. The amendment to the amendment will be stated.

The ASSISTANT SECRETARY. In the reservation offered by the Senator from Massachusetts [Mr. LODGE] on behalf of the committee, before the word "resolution," it is proposed to strike out "concurrent" and in lieu thereof to insert "joint," so that if amended it will read:

And notice of withdrawal by the United States may be given by a joint resolution of the Congress of the United States.

Mr. LODGE. Mr. President, that makes no change in the existing law. I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDENT pro tempore. The Secretary will call the roll upon the amendment proposed by the Senator from Nebraska to the amendment of the Senator from Massachusetts.

The Assistant Secretary proceeded to call the roll.

Mr. DIAL (when his name was called). I am paired with the Senator from Colorado [Mr. PHIPPS] and therefore withhold my vote.

Mr. EDGE (when his name was called). I have a general pair with the junior Senator from Oklahoma [Mr. OWEN]. I transfer that pair to the junior Senator from Michigan [Mr. NEWBERRY] and vote "nay."

Mr. HARRIS (when his name was called). I have a pair with the Senator from New York [Mr. CALDER]. I transfer that pair to the Senator from Rhode Island [Mr. GERRY] and vote "yea."

Mr. HENDERSON (when his name was called). I have a general pair with the junior Senator from Illinois [Mr. MCCORMICK], which I transfer to the junior Senator from Kentucky [Mr. STANLEY] and vote "yea."

Mr. JONES of Washington (when his name was called). The Senator from Virginia [Mr. SWANSON] is necessarily absent on account of the illness of his wife, and I have promised to take care of him during his absence. Therefore I must withhold my vote. If at liberty to vote, I should vote "nay."

Mr. KENDRICK (when his name was called). I have a general pair with the Senator from New Mexico [Mr. FALL], which I transfer to the Senator from Ohio [Mr. POMERENE] and vote "yea."

Mr. DIAL (when the name of Mr. SMITH of South Carolina was called). My colleague [Mr. SMITH of South Carolina] is detained by illness. He is paired with the Senator from South Dakota [Mr. STERLING].

Mr. STERLING (when his name was called). I have a general pair with the Senator from South Carolina [Mr. SMITH]. In his absence I withhold my vote. If at liberty to vote, I should vote "nay."

Mr. THOMAS (when his name was called). I have a general pair with the senior Senator from North Dakota [Mr. MCCUMBER]. In his absence I withhold my vote. If I were at liberty to vote, I should vote "yea" on the amendment of the Senator from Nebraska.

Mr. WATSON (when his name was called). I have a general pair with the senior Senator from Delaware [Mr. WOLCOTT]. I transfer that pair to the junior Senator from Vermont [Mr. PAGE] and vote "nay."

The roll call was concluded.

Mr. JONES of Washington. I find that I can transfer my pair to the senior Senator from Wisconsin [Mr. LA FOLLETTE], and I do so and will vote. I vote "nay."

Mr. DILLINGHAM (after having voted in the negative). I observe that the senior Senator from Maryland [Mr. SMITH], with whom I have a general pair, has not voted. I therefore transfer my pair with him to the junior Senator from Massachusetts [Mr. WALSH] and will allow my vote to stand.

Mr. BECKHAM (after having voted in the affirmative). Has the Senator from West Virginia [Mr. SUTHERLAND] voted?

The PRESIDENT pro tempore. He has not.

Mr. BECKHAM. I have a pair with that Senator. In his absence I withdraw my vote.

Mr. GLASS (after having voted in the affirmative). I have a general pair with the senior Senator from Illinois [Mr. SHERMAN]. I note that he is absent from the Chamber. I transfer that pair to the Senator from California [Mr. PHELAN] and will let my vote stand.

Mr. KIRBY. I have a general pair with the senior Senator from New York [Mr. WADSWORTH]. I transfer that pair to the junior Senator from Arizona [Mr. SMITH] and vote "yea."

Mr. ASHURST. My colleague, the Senator from Arizona [Mr. SMITH], is absent on the business of the Senate; that is, he is a member of the committee investigating Mexican affairs.

Mr. CURTIS. I have been requested to announce the following pairs:

The Senator from Ohio [Mr. HARDING] with the Senator from Alabama [Mr. UNDERWOOD];

The Senator from Alabama [Mr. BANKHEAD] with the Senator from Missouri [Mr. REED]; and

The Senator from Pennsylvania [Mr. PENROSE] with the Senator from Mississippi [Mr. WILLIAMS].

The result was announced—yeas 26, nays 38, as follows:

YEAS—26.

Ashurst	Harrison	Kirby	Robinson
Chamberlain	Henderson	McKellar	Sheppard
Culberson	Hitchcock	Myers	Simmons
Fletcher	Johnson, S. Dak.	Nugent	Trammell
Gay	Jones, N. Mex.	Overman	Walsh, Mont.
Glass	Kendrick	Pittman	
Harris	King	Ransdell	

NAYS—38.

Ball	Fernald	Keyes	Poindexter
Borah	France	Knox	Shields
Brandegee	Frelinghuysen	Lenroot	Smith, Ga.
Capper	Gore	Lodge	Smoot
Colt	Gronna	McLean	Spencer
Cummins	Hale	McNary	Townsend
Curtis	Johnson, Calif.	Moses	Warren
Dillingham	Jones, Wash.	Nelson	Watson
Edge	Kellogg	New	
Elkins	Kenyon	Norris	

NOT VOTING—32.

Bankhead	McCormick	Pomerene	Sutherland
Beckham	McCumber	Reed	Swanson
Calder	Newberry	Sherman	Thomas
Dial	Owen	Smith, Ariz.	Underwood
Fall	Page	Smith, Md.	Wadsworth
Gerry	Penrose	Smith, S. C.	Walsh, Mass.
Harding	Phelan	Stanley	Williams
La Follette	Phipps	Sterling	Wolcott

So Mr. HITCHCOCK's amendment to Mr. LODGE's amendment was rejected.

The PRESIDENT pro tempore. The question now recurs upon the amendment proposed by the Senator from Massachusetts [Mr. LODGE] to reservation No. 1.

Mr. LODGE. Mr. President, this is Saturday evening, and we have nearly reached the hour of 5 o'clock. I move that the Senate adjourn.

The PRESIDENT pro tempore. The Senator from Massachusetts moves that the Senate adjourn. [Putting the question.] By the sound the yeas seem to have it.

Mr. FLETCHER. I call for a division.

On a division, the Senate refused to adjourn.

The PRESIDENT pro tempore. The question recurs upon the amendment proposed by the Senator from Massachusetts [Mr. LODGE] to reservation No. 1, upon which the yeas and nays have been ordered. The Secretary will state the reservation as proposed to be amended.

The ASSISTANT SECRETARY. As proposed to be amended, the first reservation would read:

1. The United States so understands and construes article 1 that in case of notice of withdrawal from the League of Nations, as provided in said article, the United States shall be the sole judge as to whether all its international obligations and all its obligations under the said covenant have been fulfilled, and notice of withdrawal by the United States may be given by the President or by Congress alone whenever a majority of both Houses may deem it necessary.

The PRESIDENT pro tempore. The Secretary will call the roll.

The Assistant Secretary proceeded to call the roll.

Mr. BECKHAM (when his name was called). I have a general pair with the senior Senator from West Virginia [Mr. SUTHERLAND]. In his absence I withhold my vote.

Mr. DIAL (when his name was called). I have a pair with the Senator from Colorado [Mr. PHIPPS] and therefore withhold my vote. If I were at liberty to vote, I should vote "nay."

Mr. EDGE (when his name was called). Making the same announcement that I made before as to the transfer of my pair, I vote "yea."

Mr. GLASS (when his name was called). I have a general pair with the senior Senator from Illinois [Mr. SHERMAN]. As he is absent, I transfer that pair to the senior Senator from California [Mr. PHELAN] and vote "nay."

Mr. HARRIS (when his name was called). Making the same announcement as before in regard to my pair and its transfer, I vote "nay."

Mr. HENDERSON (when his name was called). I have a general pair with the junior Senator from Illinois [Mr. MCCORMICK], which I transfer to the junior Senator from Kentucky [Mr. STANLEY] and vote "yea."

Mr. JONES of Washington (when his name was called). I again announce my pair with the Senator from Virginia [Mr. SWANSON]. I find that I can not make a transfer on this vote, and I therefore withhold my vote.

Mr. KENDRICK (when his name was called). Making the same announcement as to the transfer of my pair that I made on the last vote, I vote "nay."

Mr. KIRBY (when his name was called). Making the same announcement as to the transfer of my general pair with the senior Senator from New York [Mr. WADSWORTH] to the junior Senator from Arizona [Mr. SMITH], I vote "nay."

Mr. GRONNA (when Mr. LA FOLLETTE'S name was called). The senior Senator from Wisconsin [Mr. LA FOLLETTE] is necessarily absent on account of illness. If he were present, he would vote "nay."

Mr. MCNARY (when Mr. MCCUMBER'S name was called). The senior Senator from North Dakota [Mr. MCCUMBER] is absent on account of illness in his family. He is paired with the Senator from Colorado [Mr. THOMAS]. I was requested by him to state that if he were present he would vote "nay."

Mr. DIAL (when the name of Mr. SMITH of South Carolina was called). I make the same announcement with reference to my colleague [Mr. SMITH of South Carolina], who is paired with the Senator from South Dakota [Mr. STERLING]. If my colleague were present and permitted to vote, he would vote "nay."

Mr. STERLING (when his name was called). Making the same announcement as to my pair as on the previous vote, I withhold my vote. If permitted to vote, I would vote "yea."

Mr. THOMAS (when his name was called). Owing to the absence of my pair, the Senator from North Dakota [Mr. MCCUMBER], I withhold my vote. If I were at liberty to vote, I would vote "yea."

Mr. WATSON (when his name was called). I transfer my pair with the Senator from Delaware [Mr. WOLCOTT] to the Senator from Vermont [Mr. PAGE] and vote "yea."

The roll call was concluded.

Mr. DILLINGHAM (after having voted in the affirmative). Making the same announcement as on the former vote and transferring my pair with the Senator from Maryland [Mr. SMITH] to the Senator from Massachusetts [Mr. WALSH], I will let my vote stand.

Mr. PAGE entered the Chamber and voted in the affirmative.

Mr. WATSON (after having voted in the affirmative). The Senator from Vermont [Mr. PAGE] having voted, I withdraw the transfer of my pair to him and withhold my vote.

Mr. CURTIS. I have been requested to announce the following pairs:

The Senator from Ohio [Mr. HARDING] with the Senator from Alabama [Mr. UNDERWOOD];

The Senator from Alabama [Mr. BANKHEAD] with the Senator from Missouri [Mr. REED]; and

The Senator from Pennsylvania [Mr. PENROSE] with the Senator from Mississippi [Mr. WILLIAMS].

The result was announced—yeas 32, nays 33, as follows:

YEAS—32.

Ashurst	Edge	Kenyon	New
Ball	Elkins	Keyes	Page
Capper	Fernald	Lenroot	Shields
Chamberlain	Frelinghuysen	Lodge	Smith, Ga.
Colt	Gore	McLean	Smoot
Cummins	Hale	McNary	Spencer
Curtis	Henderson	Myers	Townsend
Dillingham	Kellogg	Nelson	Warren

NAYS—33.

Borah	Harrison	McKellar	Robinson
Brandegee	Hitchcock	Moses	Sheppard
Culberson	Johnson, Calif.	Norris	Sherman
Fletcher	Johnson, S. Dak.	Nugent	Simmons
France	Jones, N. Mex.	Overman	Trammell
Gay	Kendrick	Phelan	Walsh, Mont.
Glass	King	Pittman	
Gronna	Kirby	Poindexter	
Harris	Knox	Ransdell	

NOT VOTING—31.

Bankhead	La Follette	Reed	Thomas
Beckham	McCormick	Smith, Ariz.	Underwood
Calder	McCumber	Smith, Md.	Wadsworth
Dial	Newberry	Smith, S. C.	Walsh, Mass.
Fall	Owen	Stanley	Watson
Gerry	Penrose	Sterling	Williams
Harding	Phipps	Sutherland	Wolcott
Jones, Wash.	Pomerene	Swanson	

So Mr. LODGE'S amendment to the committee reservation No. 1 was rejected.

The PRESIDENT pro tempore. The question now recurs upon reservation No. 1 as reported by the committee. It will be read.

The Assistant Secretary read as follows:

1. The United States so understands and construes article 1 that in case of notice of withdrawal from the League of Nations, as provided in said article, the United States shall be the sole judge as to whether all its international obligations and all its obligations under the said covenant have been fulfilled, and notice of withdrawal by the United States may be given by a concurrent resolution of the Congress of the United States.

Mr. HITCHCOCK. On that I ask for the yeas and nays.

The yeas and nays were ordered; and the Assistant Secretary proceeded to call the roll.

Mr. BECKHAM (when his name was called). Making the same announcement that I made on the last roll call with reference to my pair, I withhold my vote.

Mr. EDGE (when his name was called). Making the same announcement that I previously made with reference to my pair and its transfer, I vote "yea."

Mr. HARRIS (when his name was called). Making the same announcement with regard to my pair and its transfer, I vote "nay."

Mr. HENDERSON (when his name was called). Making the same announcement regarding my pair and transfer, I vote "yea."

Mr. JONES of Washington (when his name was called). I have a general pair with the Senator from Virginia [Mr. SWANSON]. I find that I can transfer that pair to the Senator from Wisconsin [Mr. LA FOLLETTE], which I do. I vote "yea."

Mr. KENDRICK (when his name was called). Making the same announcement as to my pair and transfer, I vote "nay."

Mr. KIRBY (when his name was called). Making the same announcement of my general pair with the senior Senator from New York [Mr. WADSWORTH] and its transfer, I vote "nay."

Mr. GRONNA (when Mr. LA FOLLETTE'S name was called). The Senator from Wisconsin [Mr. LA FOLLETTE] is absent due to illness. On this vote, by a transfer of pairs, he is paired with the senior Senator from Virginia [Mr. SWANSON]. If present, on this question the Senator from Wisconsin would vote "yea."

Mr. DIAL (when the name of Mr. SMITH of South Carolina was called). I make the same announcement with reference to the pair of my colleague as on the previous vote. If present, my colleague would vote "nay."

Mr. STERLING (when his name was called). Making the same announcement with reference to my pair, I withhold my vote. If permitted to vote, I would vote "yea."

Mr. WATSON (when his name was called). Making the same announcement as before with reference to my pair, I withhold my vote. If I were permitted to vote, I would vote "yea."

The roll call was concluded.

Mr. DILLINGHAM. I transfer my general pair with the senior Senator from Maryland [Mr. SMITH] to the junior Senator from Massachusetts [Mr. WALSH]. I vote "yea."

Mr. DIAL. I transfer my pair with the Senator from Colorado [Mr. PHIPPS] to the Senator from Texas [Mr. CULBERSON] and vote "nay."

Mr. THOMAS. I transfer my pair with the senior Senator from North Dakota [Mr. MCCUMBER] to the junior Senator from Mississippi [Mr. HARRISON] and vote "nay."

Mr. CURTIS. I have been requested to announce the following pairs:

The Senator from Ohio [Mr. HARDING] with the Senator from Alabama [Mr. UNDERWOOD];

The Senator from Alabama [Mr. BANKHEAD] with the Senator from Missouri [Mr. REED]; and

The Senator from Pennsylvania [Mr. PENROSE] with the Senator from Mississippi [Mr. WILLIAMS].

The result was announced—yeas 45, nays 20, as follows:

YEAS—45.

Ashurst	Fernald	Keyes	Poindexter
Ball	Fletcher	Knox	Sherman
Borah	France	Lenroot	Shields
Brandegee	Frelinghuysen	Lodge	Smith, Ga.
Capper	Gore	McNary	Smoot
Chamberlain	Gronna	Moses	Spencer
Colt	Hale	Myers	Townsend
Cummins	Henderson	Nelson	Trammell
Curtis	Johnson, Calif.	New	Warren
Dillingham	Jones, Wash.	Norris	
Edge	Kellogg	Nugent	
Elkins	Kenyon	Page	

NAYS—20.

Dial	Johnson, S. Dak.	McKellar	Robinson
Gay	Jones, N. Mex.	Overman	Sheppard
Glass	Kendrick	Phelan	Simmons
Harris	King	Pittman	Thomas
Hitchcock	Kirby	Ransdell	Walsh, Mont.

NOT VOTING—31.

Bankhead	La Follette	Pomerene	Swanson
Beckham	McCormick	Reed	Underwood
Calder	McCumber	Smith, Ariz.	Wadsworth
Culberson	McLean	Smith, Md.	Walsh, Mass.
Fall	Newberry	Smith, S. C.	Watson
Gerry	Owen	Stanley	Williams
Harding	Penrose	Sterling	Wolcott
Harrison	Phipps	Sutherland	

So the committee reservation No. 1 was agreed to, as follows:

1. The United States so understands and construes article 1 that in case of notice of withdrawal from the League of Nations, as provided in said article, the United States shall be the sole judge as to whether

all its international obligations and all its obligations under the said covenant have been fulfilled, and notice of withdrawal by the United States may be given by a concurrent resolution of the Congress of the United States.

Mr. LODGE. I move that the Senate as in legislative session adjourn.

The motion was agreed to; and (at 5 o'clock and 15 minutes p. m.) the Senate adjourned until Monday, February 23, 1920, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

SATURDAY, *February 21, 1920.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Teach us, dear Lord, the higher ideals and give us the courage to put them in the common daily duties of life.

We realize that theory, be it never so beautiful, is but rubbish if it does not inspire the soul to higher, nobler life. A creed is but the expression of man's conception. Religion is the life of God in the soul.

Trust no Future, howe'er pleasant!
Let the dead Past bury its dead!
Act,—act in the living Present!
Heart within, and God o'erhead!

In the spirit of the Lord Christ. Amen.

The Journal of the proceedings of yesterday was read and approved.

ABSENCE OF A QUORUM.

Mr. GARD. Mr. Speaker, a very important bill is to be taken up for consideration to-day. I make the point of order that there is no quorum present.

The SPEAKER. Does the gentleman wish a quorum for the reading of the statement on the conference report on the railroad bill or after the statement is read?

Mr. GARD. I will withhold it until after it is read.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Richmond, one of its clerks, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 8819) to amend an act entitled "An act making appropriations for the support of the Army for the fiscal year ending June 30, 1920, and for other purposes."

The message also announced that the Vice President had appointed Mr. WALSH of Montana and Mr. FRANCE members of the joint select committee on the part of the Senate as provided for in the act of February 16, 1889, as amended by the act of March 2, 1895, entitled "An act to authorize and provide for the disposition of useless papers in the executive departments" for the disposition of useless papers in the Labor Department.

RETURN OF THE RAILROADS—CONFERENCE REPORT.

The SPEAKER. Under the special order to-day the conference report on the railroad bill is under consideration.

Mr. ESCH. Mr. Speaker, I ask unanimous consent that the statement be read in lieu of the report.

The SPEAKER. The gentleman from Wisconsin asks unanimous consent that the statement be read in lieu of the report. Is there objection?

Mr. MANN of Illinois. I think the report ought to be read, Mr. Speaker.

The SPEAKER. The full bill?

Mr. MANN of Illinois. It has never been read in the House.

The SPEAKER. Does the gentleman object?

Mr. MANN of Illinois. I do.

The SPEAKER. The gentleman from Illinois objects. The Clerk will read the conference report.

Mr. ESCH. Mr. Speaker, will the gentleman from Illinois agree that the leading titles be read, such as Title II, relating to reconstruction legislation, and Title III, as to labor, and section 422, relating to the so-called standard return in section 6?

Mr MANN of Illinois. Well, Mr. Speaker, that might be perfectly satisfactory, but this bill, which is the most important bill, probably, that this Congress will pass, has never been read in the House in the shape it is in. It seems to me that a matter of such importance to be voted upon ought to be read.

Mr. GARD. Regular order, Mr. Speaker.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin [Mr. ESCH]?

Mr. MANN of Illinois. I object.

The SPEAKER. The Clerk will read the conference report.

The conference report was read.

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 10453) to provide for the termination of Federal control of railroads and systems of transportation; to provide for the settlement of disputes between carriers and their employees; to further a nend an act entitled "An act to regulate commerce," approved February 4, 1887, as amended, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment as follows: In lieu of the matter proposed by the Senate amendment, insert the following:

"TITLE I.—DEFINITIONS.

"SECTION 1. This act may be cited as the 'transportation act, 1920.'

"SEC. 2. When used in this act—

"The term 'interstate commerce act' means the act entitled 'An act to regulate commerce,' approved February 4, 1887, as amended;

"The term 'commerce court act' means the act entitled 'An act to create a commerce court, and to amend an act entitled "An act to regulate commerce," approved February 4, 1887, as heretofore amended, and for other purposes,' approved June 18, 1910;

"The term 'Federal control act' means the act entitled 'An act to provide for the operation of transportation systems while under Federal control, for the just compensation of their owners, and for other purposes,' approved March 21, 1918, as amended;

"The term 'Federal control' means the possession, use, control, and operation of railroads and systems of transportation, taken over or assumed by the President under section 1 of the act entitled 'An act making appropriations for the support of the Army for the fiscal year ending June 30, 1917, and for other purposes,' approved August 29, 1916, or under the Federal control act; and

"The term 'commission' means the Interstate Commerce Commission.

"TITLE II.—TERMINATION OF FEDERAL CONTROL.

"SEC. 200. (a) Federal control shall terminate at 12.01 a. m., March 1, 1920; and the President shall then relinquish possession and control of all railroads and systems of transportation then under Federal control and cease the use and operation thereof.

"(b) Thereafter the President shall not have or exercise any of the powers conferred upon him by the Federal control act relating—

"(1) To the use or operation of railroads or systems of transportation;

"(2) To the control or supervision of the carriers owning or operating them, or of the business or affairs of such carriers;

"(3) To their rates, fares, charges, classifications, regulations, or practices;

"(4) To the purchase, construction, or other acquisition of boats, barges, tugs, and other transportation facilities on the inland, canal, or coastwise waterways; or (except in pursuance of contracts or agreements entered into before the termination of Federal control) of terminals, motive power, cars, or equipment, on or in connection with any railroad or system of transportation;

"(5) To the utilization or operation of canals;

"(6) To the purchase of securities of carriers, except in pursuance of contracts or agreements entered into before the termination of Federal control, or as a necessary or proper incident to the adjustment, settlement, liquidation and winding up of matters arising out of Federal control; or

"(7) To the use for any of the purposes above stated (except in pursuance of contracts or agreements entered into before the termination of Federal control, and except as a necessary or proper incident to the winding up or settling of matters arising out of Federal control, and except as provided in section 202) of the revolving fund created by such act, or of any of the additions thereto made under such act, or by the act entitled 'An act to supply a deficiency in the appropriation for carrying out the act entitled "An act to provide for the operation of transportation systems while under Federal control, for the just compensation of their owners, and for other purposes," approved March 21, 1918,' approved June 30, 1919.

"(c) Nothing in this act shall be construed as affecting or limiting the power of the President in time of war (under sec-

tion 7 of the act entitled 'An act making appropriations for the support of the Army for the fiscal year ending June 30, 1917, and for other purposes,' approved August 29, 1916) to take possession and assume control of any system of transportation and utilize the same.

"GOVERNMENT-OWNED BOATS ON INLAND WATERWAYS.

"SEC. 201. (a) On the termination of Federal control, as provided in section 200, all boats, barges, tugs, and other transportation facilities, on the inland, canal, and coastwise waterways (hereinafter in this section called transportation facilities') acquired by the United States in pursuance of the fourth paragraph of section 6 of the Federal control act (except the transportation facilities constituting parts of railroads or transportaion systems over which Federal control was assumed) are transferred to the Secretary of War, who shall operate or cause to be operated such transportation facilities so that the lines of inland water transportation established by or through the President during Federal control shall be continued, and assume and carry out all contracts and agreements in relation thereto entered into by or through the President in pursuance of such paragraph prior to the time above fixed for such transfer. All payments under the terms of such contracts, and for claims arising out of the operation of such transportation facilities by or through the President prior to the termination of Federal control, shall be made out of moneys available under the provisions of this act for adjusting, settling, liquidating, and winding up matters arising out of or incident to Federal control. Moneys required for such payments shall, from time to time, be transferred to the Secretary of War as required for payment under the terms of such contracts.

"(b) All other payments after such transfer in connection with the construction, utilization, and operation of any such transportation facilities, whether completed or under construction, shall be made by the Secretary of War out of funds now or hereafter made available for that purpose.

"(c) The Secretary of War is hereby authorized, out of any moneys hereafter made available therefor, to construct or contract for the construction of terminal facilities for the interchange of traffic between the transportation facilities operated by him under this section and other carriers whether by rail or water, and to make loans for such purposes under such terms and conditions as he may determine to any State whose constitution prohibits the ownership of such terminal facilities by other than the State or a political subdivision thereof.

"(d) Any transportation facilities owned by the United States and included within any contract made by the United States for operation on the Mississippi River above St. Louis, the possession of which reverts to the United States at or before the expiration of such contract, shall be operated by the Secretary of War so as to provide facilities for water carriage on the Mississippi River above St. Louis.

"(e) The operation of the transportation facilities referred to in this section shall be subject to the provisions of the interstate commerce act as amended by this act or by subsequent legislation, and to the provisions of the 'shipping act, 1916,' as now or hereafter amended, in the same manner and to the same extent as if such transportation facilities were privately owned and operated; and all such vessels while operated and employed solely as merchant vessels shall be subject to all other laws, regulations, and liabilities governing merchant vessels, whether the United States is interested therein as owner, in whole or in part, or holds any mortgage, lien, or interest therein. For the performance of the duties imposed by this section the Secretary of War is authorized to appoint or employ such number of experts, clerks, and other employees as may be necessary for service in the District of Columbia or elsewhere, and as may be provided for by Congress.

"SETTLEMENT OF MATTERS ARISING OUT OF FEDERAL CONTROL.

"SEC. 202. The President shall, as soon as practicable after the termination of Federal control, adjust, settle, liquidate, and wind up all matters, including compensation, and all questions and disputes of whatsoever nature, arising out of or incident to Federal control. For these purposes and for the purpose of making the payments specified in subdivision (a) of section 201, all unexpended balances in the revolving fund created by the Federal control act or of the moneys appropriated by the act entitled 'An act to supply a deficiency in the appropriation for carrying out the act entitled "An act to provide for the operation of transportation systems while under Federal control, for the just compensation of their owners, and for other purposes," approved March 21, 1918,' approved June 30, 1919, are hereby reappropriated and made available until expended; and all moneys derived from the operation of the carriers or otherwise arising out of Federal control, and all moneys that have been or may be received in payment of the indebtedness of any carrier to the United States arising out of Federal control, shall be and remain available until expended for the aforesaid purposes; and there is hereby appropriated for the aforesaid purposes, out of any money in the Treasury not otherwise appropriated, $200,000,000 in addition to the above, to be available until expended.

"COMPENSATION OF CARRIERS WITH WHICH NO CONTRACT MADE.

"SEC. 203. (a) Upon the request of any carrier entitled to just compensation under the Federal control act, but with which no contract fixing or waiving compensation has been made and which has made no waiver of compensation, the President: (1) Shall pay to it so much of the amount he may determine to be just compensation as may be necessary to enable such carrier to have the sums required for interest, taxes, and other corporate charges and expenses referred to in paragraph (b) of section 7 of the standard contract between the United States and the carriers, accruing during the period for which such carrier is entitled to just compensation under the Federal control act, and also the sums required for dividends declared and paid during the same period, including, also, in addition, a sum equal to that proportion of such last dividend which the period between its payment and the termination of the period for which the carrier is entitled to just compensation under the Federal control act bears to the last dividend period; and (2) may, in his discretion, pay to such carrier the whole or any part of the remainder of such estimated amount of just compensation.

"(b) The acceptance of any benefits by a carrier under this section—

"(1) Shall not deprive it of the right to claim additional compensation, which, unless agreed upon, shall be ascertained in the manner provided in section 3 of the Federal control act; but

"(2) Shall constitute an acceptance by the carrier of all the provisions of the Federal control act as modified by this act, and obligate the carrier to pay to the United States, with interest at the rate of 6 per cent per annum from a date or dates fixed in proceedings under section 3 of the Federal control act, the amount by which the sums received on account of such compensation, under this section or otherwise, exceed the sum found due in such proceedings.

"REIMBURSEMENT OF DEFICITS DURING FEDERAL CONTROL.

"SEC. 204. (a) When used in this section—

"The term 'carrier' means a carrier by railroad which, during any part of the period of Federal control, engaged as a common carrier in general transportation, and competed for traffic, or connected, with a railroad under Federal control, and which sustained a deficit in its railway operating income for that portion (as a whole) of the period of Federal control during which it operated its own railroad or system of transportation; but does not include any street or interurban electric railway which has as its principal source of operating revenue urban, suburban, or interurban passenger traffic or sale of power, heat, and light, or both; and

"The term 'test period' means the three years ending June 30, 1917.

"(b) For the purposes of this section—

"Railway operating income or any deficit therein for the period of Federal control shall be computed in a manner similar to that provided in section 209 with respect to such income or deficit for the guaranty period; and

"Railway operating income or any deficit therein for the test period shall be computed in the manner provided in section 1 of the Federal control act.

"(c) As soon as practicable after March 1, 1920, the commission shall ascertain for every carrier, for every month of the period of Federal control during which its railroad or system of transportation was not under Federal operation, its deficit in railway operating income, if any, and its railway operating income, if any, (hereinafter called 'Federal control return'), and the average of its deficit in railway operating income, if any, and of its railway operating income, if any, for the three corresponding months of the test period taken together, (hereinafter called 'test period return'): *Provided*, That 'test period return,' in the case of a carrier which operated its railroad or system of transportation for at least one year during, but not for the whole of, the test period, means its railway operating income, or the deficit therein, for the corresponding month during the test period, or the average thereof for the corresponding months during the test period taken together, during which the carrier operated its railroad or system of transportation.

"(d) For every month of the period of Federal control during which the railroad or system of transportation of the carrier was not under Federal operation, the commission shall then ascertain (1) the difference between its Federal control return, if a deficit, and its test period return, if a smaller deficit, or

(2) the difference between its test period return, if an income, and its Federal control return, if a smaller income, or (3) the sum of its Federal control return, if a deficit, plus its test period return, if an income. The sum of such amounts shall be credited to the carrier.

"(e) For every such month the commission shall then ascertain (1) the difference between the carrier's Federal control return, if an income, and its test period return, if a smaller income, or (2) the difference between its test period return, if a deficit, and its Federal control return, if a smaller deficit, or (3) the sum of its Federal control return, if an income, plus its test period return, if a deficit. The sum of such amounts shall be credited to the United States.

"(f) If the sum of the amounts so credited to the carrier under subdivision (d) exceeds the sum of the amounts so credited to the United States under subdivision (e), the difference shall be payable to the carrier. In the case of a carrier which operated its railroad or system of transportation for less than a year during, or for none of, the test period, the foregoing computations shall not be used, but there shall be payable to such carrier its deficit in railway operating income for that portion (as a whole) of the period of Federal control during which it operated its own railroad or system of transportation.

"(g) The commission shall promptly certify to the Secretary of the Treasury the several amounts payable to carriers under paragraph (f). The Secretary of the Treasury is hereby authorized and directed thereupon to draw warrants in favor of each such carrier upon the Treasury of the United States for the amount shown in such certificate as payable thereto. An amount sufficient to pay such warrants is hereby appropriated out of any money in the Treasury not otherwise appropriated.

"INSPECTION OF CARRIERS' RECORDS.

"SEC. 205. The President shall have the right, at all reasonable times until the affairs of Federal control are concluded, to inspect the property and records of all carriers whose railroads or systems of transportation were at any time under Federal control, whenever such inspection is necessary or appropriate (1) to protect the interests of the United States, or (2) to supervise matters being handled for the United States by agents of the carriers, or (3) to secure information concerning matters arising during Federal control, and such carriers shall provide all reasonable facilities therefor, including the issuance of free transportation to all agents of the President while traveling on official business for these purposes.

"Such carriers shall, at their expense, upon the request of the President, or those duly authorized by him, furnish all necessary and proper information and reports compiled from the records made or kept during the period of Federal control affecting their respective lines, and shall keep and continue such records and furnish like information and reports compiled therefrom.

"Any carrier which refuses or obstructs such inspection, or which willfully fails to provide reasonable facilities therefor, or to furnish such information or reports shall be liable to a penalty of $500 for each day of the continuance of such offense, which shall accrue to the United States and may be recovered in a civil action to be brought by the United States.

"CAUSES OF ACTION ARISING OUT OF FEDERAL CONTROL.

"SEC. 206 (a) Actions at law, suits in equity, and proceedings in admiralty, based on causes of action arising out of the possession, use, or operation by the President of the railroad or system of transportation of any carrier (under the provisions of the Federal control act, or of the act of August 29, 1916) of such character as prior to Federal control could have been brought against such carrier, may, after the termination of Federal control, be brought against an agent designated by the President for such purpose, which agent shall be designated by the President within 30 days after the passage of this act. Such actions, suits, or proceedings may, within the periods of limitation now prescribed by State or Federal statutes but not later than two years from the date of the passage of this act, be brought in any court which but for Federal control would have had jurisdiction of the cause of action had it arisen against such carrier.

"(b) Process may be served upon any agent or officer of the carrier operating such railroad or system of transportation, if such agent or officer is authorized by law to be served with process in proceedings brought against such carrier and if a contract has been made with such carrier by or through the President for the conduct of litigation arising out of operation during Federal control. If no such contract has been made process may be served upon such agents or officers as may be designated by or through the President. The agent designated by the President under subdivision (a) shall cause to be filed, upon the termination of Federal control, in the office of the clerk of each district court of the United States, a statement naming all carriers with whom he has contracted for the conduct of litigation arising out of operation during Federal control, and a like statement designating the agents or officers upon whom process may be served in actions, suits, and proceedings arising in respect to railroads or systems of transportation with the owner of which no such contract has been made; and such statements shall be supplemented from time to time, if additional contracts are made or other agents or officers appointed.

"(c) Complaints praying for reparation on account of damage claimed to have been caused by reason of the collection or enforcement by or through the President during the period of Federal control of rates, fares, charges, classifications, regulations, or practices (including those applicable to interstate, foreign, or intrastate traffic) which were unjust, unreasonable, unjustly discriminatory, or unduly or unreasonably prejudicial, or otherwise in violation of the interstate commerce act, may be filed with the commission, within one year after the termination of Federal control, against the agent designated by the President under subdivision (a), naming in the petition the railroad or system of transportation against which such complaint would have been brought if such railroad or system had not been under Federal control at the time the matter complained of took place. The commission is hereby given jurisdiction to hear and decide such complaints in the manner provided in the interstate commerce act, and all notices and orders in such proceedings shall be served upon the agent designated by the President under subdivision (a).

"(d) Actions, suits, proceedings, and reparation claims, of the character above described pending at the termination of Federal control shall not abate by reason of such termination, but may be prosecuted to final judgment, substituting the agent designated by the President under subdivision (a).

"(e) Final judgments, decrees, and awards in actions, suits, proceedings, or reparation claims, of the character above described, rendered against the agent designated by the President under subdivision (a), shall be promptly paid out of the revolving fund created by section 210.

"(f) The period of Federal control shall not be computed as a part of the periods of limitation in actions against carriers or in claims for reparation to the commission for causes of action arising prior to Federal control.

"(g) No execution or process, other than on a judgment recovered by the United States against a carrier, shall be levied upon the property of any carrier where the cause of action on account of which the judgment was obtained grew out of the possession, use, control, or operation of any railroad or system of transportation by the President under Federal control.

"REFUNDING OF CARRIERS' INDEBTEDNESS TO UNITED STATES.

"SEC. 207. (a) As soon as practicable after the termination of Federal control the President shall ascertain (1) the amount of the indebtedness of each carrier to the United States which may exist at the termination of Federal control, incurred for additions and betterments made during Federal control and properly chargeable to capital account; (2) the amount of indebtedness of such carrier to the United States otherwise incurred; and (3) the amount of the indebtedness of the United States to such carrier arising out of Federal control. The amount under clause (3) may be set off against either or both of the amounts under clauses (1) and (2), so far as deemed wise by the President, but only to the extent permitted under any contract now or hereafter made between such carrier and the United States in respect to the matters of Federal control, or, where no such contract exists, to the extent permitted under paragraph (b) of section 7 of the standard contract between the United States and the carriers relative to deductions from compensation: *Provided*, That such right of set-off shall not be so exercised as to prevent such carrier from having the sums required for interest, taxes, and other corporate charges and expenses referred to in paragraph (b) of section 7 of such standard contract, accruing during Federal control, and also the sums required for dividends declared and paid during Federal control, including, also in addition, a sum equal to that proportion of such last dividend which the period between its payment and the termination of Federal control bears to the last regular dividend period: *And provided further*, That such right of set-off shall not be exercised unless there shall have first been paid such sums in addition as may be necessary to provide the carrier with working capital in amount not less than one twenty-fourth of its operating expenses for the calendar year 1919.

"(b) Any remaining indebtedness of the carrier to the United States in respect to such additions and betterments shall, at the request of the carrier, be funded for a period of 10 years from the termination of Federal control, or a shorter period at the option of the carrier, with interest at the rate of 6 per cent per annum, payable semiannually, subject to the right of such carrier to pay, on any interest-payment day, the whole or any part of such indebtedness. Any carrier obtaining the funding of such indebtedness as aforesaid shall give, in the discretion of the President, such security, in such form and upon such terms, as he may prescribe.

"(c) If the President and the various carriers, or any of them, shall enter into an agreement for funding, through the medium of car trust certificates, or otherwise, the indebtedness of any such carrier to the United States incurred for equipment ordered for the benefit of such carrier, such indebtedness so funded shall not be refundable under the foregoing provisions.

"(d) Any other indebtedness of any such carrier to the United States which may exist after the settlement of accounts between the United States and the carrier and is then due shall be evidenced by notes payable in one year from the termination of Federal control, or a shorter period at the option of the carrier, with interest at the rate of 6 per cent per annum, and secured by such collateral security as the President may deem it advisable to require.

"(e) With respect to any bonds, notes, or other securities, acquired under the provisions of this section or of the Federal control act or of the act entitled 'An act to provide for the reimbursement of the United States for motive power, cars and other equipment ordered for railroads and systems of transportation under Federal control, and for other purposes,' approved November 19, 1919, the President shall have the right to make such arrangements for extension of the time of payment or for the exchange of any of them for other securities, or partly for cash and partly for securities, as may be provided for in any agreement entered into by him or as may in his judgment seem desirable.

"(f) Carriers may, by agreement with the President, issue notes or other evidences of indebtedness, secured by equipment trust agreements, for equipment purchased during Federal control by or through the President under section 6 of the Federal control act, and allocated to such carriers respectively; and the filing of such equipment trust agreements with the commission shall constitute notice thereof to all the world.

"(g) A carrier may issue evidences of indebtedness pursuant to this section without the authorization or approval of any authority, State or Federal, and without compliance with any requirement, State or Federal, as to notification.

"EXISTING RATES TO CONTINUE IN EFFECT.

"SEC. 208. (a) All rates, fares, and charges, and all classifications, regulations, and practices, in any wise changing, affecting, or determining, any part or the aggregate of rates, fares, or charges, or the value of the service rendered, which on February 29, 1920, are in effect on the lines of carriers subject to the interstate commerce act, shall continue in force and effect until thereafter changed by State or Federal authority, respectively, or pursuant to authority of law; but prior to September 1, 1920, no such rate, fare, or charge shall be reduced, and no such classification, regulation, or practice shall be changed in such manner as to reduce any such rate, fare, or charge, unless such reduction or change is approved by the commission.

"(b) All divisions of joint rates, fares, or charges, which on February 29, 1920, are in effect between the lines of carriers subject to the interstate commerce act, shall continue in force and effect until thereafter changed by mutual agreement between the interested carriers or by State or Federal authorities, respectively.

"(c) Any land grant railroad organized under the act of July 28, 1866 (chapter 300), shall receive the same compensation for transportation of property and troops of the United States as is paid to land grant railroads organized under the land grant act of March 3, 1863, and the act of July 27, 1866 (chapter 278).

"GUARANTY TO CARRIERS AFTER TERMINATION OF FEDERAL CONTROL.

"SEC. 209. (a) When used in this section—

"The term 'carrier' means (1) a carrier by railroad or partly by railroad and partly by water, whose railroad or system of transportation is under Federal control at the time Federal control terminates, or which has heretofore engaged as a common carrier in general transportation and competed for traffic, or connected, with a railroad at any time under Federal control; and (2) a sleeping car company whose system of transportation is under Federal control at the time Federal control terminates; but does not include a street or interurban electric railway not under Federal control at the time Federal control terminates, which has as its principal source of operating revenue urban, suburban, or interurban passenger traffic or sale of power, heat, and light, or both;

"The term 'guaranty period' means the six months beginning March 1, 1920.

"The term 'test period' means the three years ending June 30, 1917; and

"The term 'railway operating income' and other references to accounts of carriers by railroad shall, in the case of a sleeping car company, be construed as indicating the appropriate corresponding accounts in the accounting system prescribed by the commission.

"(b) This section shall not be applicable to any carrier which does not on or before March 15, 1920, file with the commission a written statement that it accepts all the provisions of this section.

"(c) The United States hereby guarantees—

"(1) With respect to any carrier with which a contract (exclusive of so-called cooperative contracts or waivers) has been made fixing the amount of just compensation under the Federal control act, that the railway operating income of such carrier for the guaranty period as a whole shall not be less than one-half the amount named in such contract as annual compensation, or, where the contract fixed a lump sum as compensation for the whole period of Federal operation, that the railway operating income of such carrier for the guaranty period as a whole shall not be less than an amount which shall bear the same proportion to the lump sum so fixed as six months bears to the number of months during which such carrier was under Federal operation, including in both cases the increases in such compensation provided for in section 4 of the Federal control act;

"(2) With respect to any carrier entitled to just compensation under the Federal control act, with which such a contract has not been made, that the railway operating income of such carrier for the guaranty period as a whole shall not be less than one-half of the annual amount estimated by the President as just compensation for such carrier under the Federal control act, including the increases in such compensation provided for in section 4 of the Federal control act. If any such carrier does not accept the President's estimate respecting its just compensation, and if in proceedings under section 3 of the Federal control act it is determined that a larger or smaller annual amount is due as just compensation, the guaranty under this paragraph shall be increased or decreased accordingly;

"(3) With respect to any carrier, whether or not entitled to just compensation under the Federal control act, with which such a contract has not been made, and for which no estimate of just compensation is made by the President, and which for the test period as a whole sustained a deficit in railway operating income, the guaranty shall be a sum equal to (a) the amount by which any deficit in its railway operating income for the guaranty period as a whole exceeds one-half of its average annual deficit in railway operating income for the test period, plus (b) an amount equal to one-half the annual sum fixed by the President under section 4 of the Federal control act;

"(4) With respect to any carrier not entitled to just compensation under the Federal control act, which for the test period as a whole had an average annual railway operating income, that the railway operating income of such carrier for the guaranty period as a whole shall not be less than one-half the average annual railway operating income of such carrier during the test period.

"(d) If for the guaranty period as a whole the railway operating income of any carrier entitled to a guaranty under paragraph (1), (2), or (4) of subdivision (c) is in excess of the minimum railway operating income guaranteed in such paragraph, such carrier shall forthwith pay the amount of such excess into the Treasury of the United States. If for the guaranty period as a whole the railway operating income of any carrier entitled to a guaranty under paragraph (3) of subdivision (c) is in excess of one-half of the annual sum fixed by the President with respect to such carrier under section 4 of the Federal control act, such carrier shall forthwith pay the amount of such excess into the Treasury of the United States. The amounts so paid into the Treasury of the United States shall be added to the funds made available under section 202 for the purposes indicated in such section. Notwithstanding the provisions of this subdivision, any carrier may retain out of any such excess any amount necessary to enable it to pay its fixed charges accruing during the guaranty period.

"(e) For the purposes of this section railway operating income, or any deficit therein, for the test period shall be computed in the manner provided for in section 1 of the Federal control act.

"(f) In computing railway operating income, or any deficit therein, for the guaranty period for the purposes of this section—

"(1) Debits and credits arising from the accounts, called in the monthly reports to the commission equipment rents and joint facility rents, shall be included, but debits and credits arising from the operation of such street electric passenger railways, including railways commonly called interurbans, as are not under Federal control at the time of termination thereof, shall be excluded;

"(2) Proper adjustments shall be made (a) in case any lines which were during any portion of the period of Federal control, a part of the railroad or system of transportation of the carrier, and whose railway operating income was included in such income of the carrier for the test period, do not continue to be a part of such railroad or system of transportation during the entire guaranty period, and (b) in case of any lines acquired by, leased to, or consolidated with, the railroad or system of transportation of the carrier at any time since the end of the test period and prior to the expiration of the guaranty period, for which separate operating returns to the commission are not made in respect to the entire portion of the guaranty period;

"(3) There shall not be included in operating expenses, for maintenance of way and structures, or for maintenance of equipment, more than an amount fixed by the commission. In fixing such amount the commission shall so far as practicable apply the rule set forth in the proviso in paragraph (a) of section 5 of the "standard contract" between the United States and the carriers (whether or not such contract has been entered into with the carrier whose railway operating income is being computed);

"(4) There shall not be included any taxes paid under Title I or II of the revenue act of 1917, or such portion of the taxes paid under Title II or III of the revenue act of 1918 as by the terms of such act are to be treated as levied by an act in amendment of Title I or II of the revenue act of 1917; and

"(5) The commission shall require the elimination and restatement of the operating expenses and revenues (other than for maintenance of way and structures, or maintenance of equipment) for the guaranty period, to the extent necessary to correct and exclude any disproportionate or unreasonable charge to such expenses or revenues for such period, or any charge to such expenses or revenues for such period which under a proper system of accounting is attributable to another period.

"(g) The commission shall, as soon as practicable after the expiration of the guaranty period, ascertain and certify to the Secretary of the Treasury the several amounts necessary to make good the foregoing guaranty to each carrier. The Secretary of the Treasury is hereby authorized and directed thereupon to draw warrants in favor of each such carrier upon the Treasury of the United States, for the amount shown in such certificate as necessary to make good such guaranty. An amount sufficient to pay such warrants is hereby appropriated out of any money in the Treasury not otherwise appropriated.

"(h) Upon application of any carrier to the commission, asking that during the guaranty period there may be advanced to it from time to time such sums, not in excess of the estimated amount necessary to make good the guaranty, as are necessary to enable it to meet its fixed charges and operating expenses, the commission may certify to the Secretary of the Treasury the amount of, and times at which, such advances, if any, shall be made. The Secretary of the Treasury, on receipt of such certificate, is authorized and directed to make the advances in the amounts and at the times specified in the certificate, upon the execution by the carrier of a contract, secured in such manner as the Secretary may determine, that upon final determination of the amount of the guaranty provided for by this section such carrier will repay to the United States any amounts which it has received from such advances in excess of the guaranty, with interest at the rate of 6 per cent per annum from the time such excess was paid. There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, a sum sufficient to enable the Secretary of the Treasury to make the advances referred to in this subdivision.

"(i) If the American Railway Express Co. shall, on or before March 15, 1920, file with the commission a written statement that it accepts all the provisions of this subdivision, the contract of June 26, 1918, between such company and the Director General of Railroads, as amended and continued by agreement dated November 21, 1918, shall remain in full force and effect during the guaranty period in so far as the same constitutes a guaranty on the part of the United States to such company against a deficit in operating income.

"In computing operating income, and any deficit therein, for the guaranty period for the purposes of this subdivision, the commission shall require the elimination and restatement of the operating expenses and revenues for the guaranty period, to the extent necessary to correct and exclude any disproportionate or unreasonable charge to such expenses or revenues for such period, or any charge to such expenses or revenues for such period which under a proper system of accounting is attributable to another period, and to exclude from operating expenses so much of the charge for payment for express privileges to carriers on whose lines the express traffic is carried as is in excess of 50.25 per cent of gross express revenue.

"For the guaranty period the American Railway Express Co. shall pay to every carrier which accepts the provisions of this section, as provided in subdivision (b) hereof, 50.25 per cent of the gross revenue earned on the transportation of all its express traffic on the carrier's lines, and every such carrier shall accept from the American Railway Express Co. such percentage of the gross revenue as its compensation. In arriving at the gross revenue on through or joint express traffic, the method of dividing the revenue between the carriers shall be that agreed upon between the carriers and such express company and approved by the commission.

"If for the guaranty period as a whole the American Railway Express Co. does not have a deficit in operating income, it shall forthwith pay the amount of its operating income for such period into the Treasury of the United States. The amount so paid shall be added to the funds made available under section 202 for the purposes indicated in such section.

"The commission shall, as soon as practicable after the expiration of the guaranty period, certify to the Secretary of the Treasury the amount necessary to make good the foregoing guaranty to the American Railway Express Co. The Secretary of the Treasury is hereby authorized and directed thereupon to draw warrants in favor of such company upon the Treasury of the United States for the amount shown in such certificate as necessary to make good such guaranty. An amount sufficient to pay such warrants is hereby appropriated out of any money in the Treasury not otherwise appropriated.

"Upon application of the American Railway Express Co. to the commission, asking that during the guaranty period there may be advanced to it from time to time such sums, not in excess of the estimated amount necessary to make good the guaranty, as are necessary to enable it to meet its operating expenses, the commission may certify to the Secretary of the Treasury the amount of, and times at which, such advances, if any, shall be made. The Secretary of the Treasury, on receipt of such certificate, is authorized and directed to make the advances in the amounts and at the times specified in the certificate, upon the execution by such company of a contract, secured in such manner as the Secretary may determine, that upon final determination of the amount of the guaranty provided for by this subdivision such company will repay to the United States any amounts which it has received from such advances in excess of the guaranty, with interest at the rate of 6 per cent per annum from the time such excess was paid. There is hereby appropriated out of any money in the Treasury not otherwise appropriated a sum sufficient to enable the Secretary of the Treasury to make the advances referred to in this subdivision.

"NEW LOANS TO RAILROADS.

"SEC. 210. (a) For the purpose of enabling carriers by railroad subject to the interstate commerce act properly to serve the public during the transition period immediately following the termination of Federal control, any such carrier may, at any time after the passage of this act and before the expiration of two years after the termination of Federal control, make application to the commission for a loan from the United States, setting forth the amount of the loan and the term for which it is desired, the purpose of the loan and the uses to which it will be applied, the present and prospective ability of the applicant to repay the loan and meet the requirements of its obligations in that regard, the character and value of the security offered, and the extent to which the public convenience and necessity will be served. The application shall be accompanied by statements showing such facts and details as the commission may require with respect to the physical situation, ownership, capitalization, indebtedness, contract obligations, operation, and earning power of the applicant, together with such other facts relating to the propriety and expediency of granting the loan applied for and the ability of the applicant to make good the obligation, as the commission may deem pertinent to the inquiry.

"(b) If the commission, after such hearing and investigation, with or without notice, as it may direct, finds that the making,

in whole or in part, of the proposed loan by the United States is necessary to enable the applicant properly to meet the transportation needs of the public, and that the prospective earning power of the applicant and the character and value of the security offered are such as to furnish reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and to meet its other obligations in connection with such loan, the commission may certify to the Secretary of the Treasury its findings of fact and its recommendations as to: the amount of the loan which is to be made; the time, not exceeding five years from the making thereof, within which it is to be repaid; the character of the security which is to be offered therefor; and the terms and conditions of the loan.

"(c) Upon receipt of such certificate from the commission, the Secretary of the Treasury, at any time before the expiration of 26 months after the termination of Federal control, is authorized to make a loan, not exceeding the maximum amount recommended in such certificate, out of any moneys in the revolving fund provided for in this section. All such loans shall bear interest at the rate of 6 per cent per annum, payable semiannually to the Secretary of the Treasury and to be placed to the credit of the revolving fund provided for in this section. The time, not exceeding five years from the making thereof, within which such loan is to be repaid, the security which is to be taken therefor, which shall be adequate to secure the loan, the terms and conditions of the loan, and the form of the obligation to be entered into, shall be prescribed by the Secretary of the Treasury.

"(d) The commission or the Secretary of the Treasury may call upon the Federal Reserve Board for advice and assistance with respect to any such application or loan.

"(e) There is hereby appropriated out of any moneys in the Treasury not otherwise appropriated the sum of $300,000,000, which shall be used as a revolving fund for the purpose of making the loans provided for in this section, and for paying the judgments, decrees, and awards referred to in subdivision (e) of section 206.

"(f) A carrier may issue evidences of indebtedness to the United States pursuant to this section without the authorization or approval of any authority, State or Federal, and without compliance with any requirement, State or Federal, as to notification.

"EXECUTION OF POWERS OF PRESIDENT.

"SEC. 211. All powers and duties conferred or imposed upon the President by the preceding sections of this act, except the designation of the agent under section 206, may be executed by him through such agency or agencies as he may determine.

"TITLE III.—DISPUTES BETWEEN CARRIERS AND THEIR EMPLOYEES AND SUBORDINATE OFFICIALS.

"SEC. 300. When used in this title—

"(1) The term 'carrier' includes any express company, sleeping car company, and any carrier by railroad, subject to the interstate commerce act, except a street, interurban, or suburban electric railway not operating as a part of a general steam railroad system of transportation;

"(2) The term 'adjustment board' means any railroad board of labor adjustment established under section 302;

"(3) The term 'labor board' means the railroad labor board;

"(4) The term 'commerce' means commerce among the several States or between any State, Territory, or the District of Columbia and any foreign nation, or between any Territory or the District of Columbia and any State, or between any Territory and any other Territory, or between any Territory and the District of Columbia, or within any Territory or the District of Columbia, or between points in the same State but through any other State or any Territory or the District of Columbia or any foreign nation; and

"(5) The term 'subordinate official' includes officials of carriers of such class or rank as the commission shall designate by regulation formulated and issued after such notice and hearing as the commission may prescribe, to the carriers, and employees and subordinate officials of carriers, and organizations thereof, directly to be affected by such regulations.

"SEC. 301. It shall be the duty of all carriers and their officers, employees, and agents to exert every reasonable effort and adopt every available means to avoid any interruption to the operation of any carrier growing out of any dispute between the carrier and the employees or subordinate officials thereof. All such disputes shall be considered and, if possible, decided in conference between representatives designated and authorized so to confer by the carriers, or the employees or subordinate officials thereof, directly interested in the dispute. If any dispute is not decided in such conference, it shall be referred by the parties thereto to the board which under the provisions of this title is authorized to hear and decide such dispute.

"SEC. 302. Railroad boards of labor adjustment may be established by agreement between any carrier, group of carriers, or the carriers as a whole, and any employees or subordinate officials of carriers, or organization or group of organizations thereof.

"SEC. 303. Each such adjustment board shall, (1) upon the application of the chief executive of any carrier or organization of employees or subordinate officials whose members are directly interested in the dispute, (2) upon the written petition signed by not less than 100 unorganized employees or subordinate officials directly interested in the dispute, (3) upon the adjustment board's own motion, or (4) upon the request of the labor board whenever such board is of the opinion that the dispute is likely substantially to interrupt commerce, receive for hearing, and as soon as practicable and with due diligence decide, any dispute involving only grievances, rules, or working conditions, not decided as provided in section 301, between the carrier and its employees or subordinate officials, who are, or any organization thereof which is, in accordance with the provisions of section 302, represented upon any such adjustment board.

"SEC. 304. There is hereby established a board to be known as the "railroad labor board" and to be composed of nine members as follows:

"(1) Three members constituting the labor group, representing the employees and subordinate officials of the carriers, to be appointed by the President, by and with the advice and consent of the Senate, from not less than six nominees whose nominations shall be made and offered by such employees in such manner as the commission shall by regulation prescribe;

"(2) Three members, constituting the management group, representing the carriers, to be appointed by the President, by and with the advice and consent of the Senate, from not less than six nominees whose nominations shall be made and offered by the carriers in such manner as the commission shall by regulation prescribe; and

"(3) Three members, constituting the public group, representing the public, to be appointed directly by the President, by and with the advice and consent of the Senate.

"Any vacancy on the labor board shall be filed in the same manner as the original appointment.

"SEC. 305. If either the employees or the carriers fail to make nominations and offer nominees in accordance with the regulations of the commission, as provided in paragraphs (1) and (2) of section 304, within 30 days after the passage of this act in case of any original appointment to the office of member of the labor board, or in case of a vacancy in any such office within 15 days after such vacancy occurs, the President shall thereupon directly make the appointment, by and with the advice and consent of the Senate. In making any such appointment the President shall, as far as he deems it practicable, select an individual associated in interest with the carriers or employees thereof, whichever he is to represent.

"SEC. 306. (a) Any member of the labor board who during his term of office is an active member or in the employ of or holds any office in any organization of employees or subordinate officials, or any carrier, or owns any stock or bond thereof, or is pecuniarily interested therein, shall at once become ineligible for further membership upon the labor board; but no such member is required to relinquish honorary membership in, or his rights in any insurance or pension or other benefit fund maintained by, any organization of employees or subordinate officials or by a carrier.

"(b) Of the original members of the labor board, one from each group shall be appointed for a term of three years, one for two years, and one for one year. Their successors shall hold office for terms of five years, except that any member appointed to fill a vacancy shall be appointed only for the unexpired term of the member whom he succeeds. Each member shall receive from the United States an annual salary of $10,000. A member may be removed by the President for neglect of duty or malfeasance in office, but for no other cause.

"SEC. 307. (a) The labor board shall hear, and as soon as practicable and with due diligence decide, any dispute involving grievances, rules, or working conditions, in respect to which any adjustment board certifies to the labor board that in its opinion the adjustment board has failed or will fail to reach a decision within a reasonable time, or in respect to which the labor board determines that any adjustment board has so failed or is not using due diligence in its consideration thereof. In case the appropriate adjustment board is not organized under the provisions of section 302, the labor board, (1) upon the application of the chief executive of any carrier or organization of employees or subordinate officials whose members are directly interested in the dispute, (2) upon a written petition signed by not less than

100 unorganized employees or subordinate officials directly interested in the dispute, or (3) upon the labor board's own motion if it is of the opinion that the dispute is likely substantially to interrupt commerce, shall receive for hearing, and as soon as practicable and with due diligence decide, any dispute involving grievances, rules, or working conditions which is not decided as provided in section 301 and which such adjustment board would be required to receive for hearing and decision under the provisions of section 303.

"(b) The labor board, (1) upon the application of the chief executive of any carrier or organization of employees or subordinate officials whose members are directly interested in the dispute, (2) upon a written petition signed by not less than 100 unorganized employees or subordinate officials directly interested in the dispute, or (3) upon the labor board's own motion if it is of the opinion that the dispute is likely substantially to interrupt commerce, shall receive for hearing, and as soon as practicable and with due diligence decide, all disputes with respect to the wages or salaries of employees or subordinate officials of carriers, not decided as provided in section 301. The labor board may upon its own motion within 10 days after the decision, in accordance with the provisions of section 301, of any dispute with respect to wages or salaries of employees or subordinate officials of carriers, suspend the operation of such decision if the labor board is of the opinion that the decision involves such an increase in wages or salaries as will be likely to necessitate a substantial readjustment of the rates of any carrier. The labor board shall hear any decision so suspended and as soon as practicable and with due diligence decide to affirm or modify such suspended decision.

"(c) A decision by the labor board under the provisions of paragraphs (a) or (b) of this section shall require the concurrence therein of at least 5 of the 9 members of the labor board: *Provided*, That in case of any decision under paragraph (b), at least one of the representatives of the public shall concur in such decision. All decisions of the labor board shall be entered upon the records of the board and copies thereof, together with such statement of facts bearing thereon as the board may deem proper, shall be immediately communicated to the parties to the dispute, the President, each adjustment board, and the commission, and shall be given further publicity in such manner as the labor board may determine.

"(d) All the decisions of the labor board in respect to wages or salaries and of the labor board or an adjustment board in respect to working conditions of employees or subordinate officials of carriers shall establish rates of wages and salaries and standards of working conditions which in the opinion of the board are just and reasonable. In determining the justness and reasonableness of such wages and salaries or working conditions the board shall, so far as applicable, take into consideration among other relevant circumstances:

"(1) The scales of wages paid for similar kinds of work in other industries;

"(2) The relation between wages and the cost of living;

"(3) The hazards of the employment;

"(4) The training and skill required;

"(5) The degree of responsibility;

"(6) The character and regularity of the employment; and

"(7) Inequalities of increases in wages or of treatment, the result of previous wage orders or adjustments.

"SEC. 308. The labor board—

"(1) Shall elect a chairman by majority vote of its members;

"(2) Shall maintain central offices in Chicago, Ill., but the labor board may, whenever it deems it necessary, meet at such other place as it may determine;

"(3) Shall investigate and study the relations between carriers and their employees, particularly questions relating to wages, hours of labor, and other conditions of employment and the respective privileges, rights, and duties of carriers and employees, and shall gather, compile, classify, digest, and publish, from time to time, data and information relating to such questions to the end that the labor board may be properly equipped to perform its duties under this title and that the members of the adjustment boards and the public may be properly informed;

"(4) May make regulations necessary for the efficient execution of the functions vested in it by this title; and

"(5) Shall at least annually collect and publish the decisions and regulations of the labor board and the adjustment boards and all court and administrative decisions and regulations of the commission in respect to this title, together with a cumulative index-digest thereof.

"SEC. 309. Any party to any dispute to be considered by an adjustment board or by the labor board shall be entitled to a hearing either in person or by counsel.

"SEC. 310. (a) For the efficient administration of the functions vested in the labor board by this title, any member thereof may require, by subpœna issued and signed by himself, the attendance of any witness and the production of any book, paper, document, or other evidence from any place in the United States at any designated place of hearing, and the taking of a deposition before any designated person having power to administer oaths. In the case of a deposition the testimony shall be reduced to writing by the person taking the deposition or under his direction, and shall then be subscribed to by the deponent. Any member of the labor board may administer oaths and examine any witness. Any witness summoned before the board and any witness whose deposition is taken shall be paid the same fees and mileage as are paid witnesses in the courts of the United States.

"(b) In case of failure to comply with any subpœna or in case of the contumacy of any witness appearing before the labor board, the board may invoke the aid of any United States district court. Such court may thereupon order the witness to comply with the requirements of such subpœna, or to give evidence touching the matter in question, as the case may be. Any failure to obey such order may be punished by such court as a contempt thereof.

"(c) No person shall be excused from so attending and testifying or deposing, nor from so producing any book, paper, document, or other evidence on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or foreiture; but no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing, as to which in obedience to a subpœna and under oath, he may so testify or produce evidence, documentary or otherwise. But no person shall be exempt from prosecution and punishment for perjury committed in so testifying.

"SEC. 311. (a) When necessary to the efficient administration of the functions vested in the labor board by this title, any member, officer, employee, or agent thereof, duly authorized in writing by the board, shall at all reasonable times for the purpose of examination have access to and the right to copy any book, account, record, paper, or correspondence relating to any matter which the board is authorized to consider or investigate. Any person who upon demand refuses any duly authorized member, officer, employee, or agent of the labor board such right of access or copying, or hinders, obstructs, or resists him in the exercise of such right, shall upon conviction thereof be liable to a penalty of $500 for each such offense. Each day during any part of which such offense continues shall constitute a separate offense. Such penalty shall be recoverable in a civil suit brought in the name of the United States, and shall be covered into the Treasury of the United States as miscellaneous receipts.

"(b) Every officer or employee of the United States, whenever requested by any member of the labor board or an adjustment board duly authorized by the board for the purpose, shall supply to such board any data or information pertaining to the administration of the functions vested in it by this title, which may be contained in the records of his office.

"(c) The President is authorized to transfer to the labor board any books, papers, or documents pertaining to the administration of the functions vested in the board by this title, which are in the possession of any agency, or railway board of adjustment in connection therewith, established for executing the powers granted the President under the Federal control act and which are no longer necessary to the administration of the affairs of such agency.

"SEC. 312. Prior to September 1, 1920, each carrier shall pay to each employee or subordinate official thereof wages or salary at a rate not less than that fixed by the decision of any agency, or railway board of adjustment in connection therewith, established for executing the powers granted the President under the Federal control act, in effect in respect to such employee or subordinate official immediately preceding 12.01 a. m. March 1, 1920. Any carrier acting in violation of any provision of this section shall upon conviction thereof be liable to a penalty of $100 for each such offense. Each such action with respect to any such employee or subordinate official and each day or portion thereof during which the offense continues shall constitute a separate offense. Such penalty shall be recoverable in a civil suit brought in the name of the United States, and shall be covered into the Treasury of the United States as miscellaneous receipts.

"SEC. 313. The labor board, in case it has reason to believe that any decision of the labor board or of an adjustment board

is violated by any carrier, or employee or subordinate official, or organization thereof, may upon its own motion after due notice and hearing to all persons directly interested in such violation, determine whether in its opinion such violation has occurred and make public its decision in such manner as it may determine.

"SEC. 314. The labor board may (1) appoint a secretary, who shall receive from the United States an annual salary of $5,000; and (2) subject to the provisions of the civil-service laws, appoint and remove such officers, employees, and agents; and make such expenditures for rent, printing, telegrams, telephone, law books, books of reference, periodicals, furniture, stationery, office equipment, and other supplies and expenses, including salaries, traveling expenses of its members, secretary, officers, employees, and agents, and witness fees, as are necessary for the efficient execution of the functions vested in the board by this title and as may be provided for by Congress from time to time. All of the expenditures of the labor board shall be allowed and paid upon the presentation of itemized vouchers therefor approved by the chairman of the labor board.

"SEC. 315. There is hereby appropriated for the fiscal year ending June 30, 1920, out of any money in the Treasury not otherwise appropriated, the sum of $50,000, or so much thereof as may be necessary, to be expended by the labor board, for defraying the expenses of the maintenance and establishment of the board, including the payment of salaries as provided in this title.

"SEC. 316. The powers and duties of the Board of Mediation and Conciliation created by the act approved July 15, 1913, shall not extend to any dispute which may be received for hearing and decision by any adjustment board or the labor board.

"TITLE IV.—AMENDMENTS TO INTERSTATE COMMERCE ACT.

"SEC. 400. The first four paragraphs of section 1 of the interstate commerce act, as such paragraphs appear in section 7 of the commerce court act, are hereby amended to read as follows:

"'(1) That the provisions of this act shall apply to common carriers engaged in—

"'(a) The transportation of passengers or property wholly by railroad, or partly by railroad and partly by water when both are used under a common control, management, or arrangement for a continuous carriage or shipment; or

"'(b) The transportation of oil or other commodity, except water and except natural or artificial gas, by pipe line, or partly by pipe line and partly by railroad or by water; or

"'(c) The transmission of intelligence by wire or wireless;—from one State or Territory of the United States, or the District of Columbia, to any other State or Territory of the United States, or the District of Columbia, or from one place in a Territory to another place in the same Territory, or from any place in the United States through a foreign country to any other place in the United States, or from or to any place in the United States to or from a foreign country, but only in so far as such transportation or transmission takes place within the United States.

"'(2) The provisions of this act shall also apply to such transportation of passengers and property and transmission of intelligence, but only in so far as such transportation or transmission takes place within the United States, but shall not apply—

"'(a) To the transportation of passengers or property, or to the receiving, delivering, storage, or handling of property, wholly within one State and not shipped to or from a foreign country from or to any place in the United States as aforesaid;

"'(b) To the transmission of intelligence by wire or wireless wholly within one State and not transmitted to or from a foreign country from or to any place in the United States as aforesaid; or

"'(c) To the transportation of passengers or property by a carrier by water where such transportation would not be subject to the provisions of this act except for the fact that such carrier absorbs, out of its port-to-port water rates or out of its proportional through rates, any switching, terminal, lighterage, car rental, trackage, handling, or other charges by a rail carrier for services within the switching, drayage, lighterage, or corporate limits of a port terminal or district.

"'(3) The term "common carrier" as used in this act shall include all pipe-line companies; telegraph, telephone, and cable companies operating by wire or wireless; express companies; sleeping-car companies; and all persons, natural or artificial, engaged in such transportation or transmission as aforesaid as common carriers for hire. Wherever the word "carrier" is used in this act it shall be held to mean "common carrier." The term "railroad" as used in this act shall include all bridges, car floats, lighters, and ferries used by or operated in connection with any railroad, and also all the road in use by any common carrier operating a railroad, whether owned or operated under a contract, agreement, or lease, and also all switches, spurs, tracks, terminals, and terminal facilities of every kind used or necessary in the transportation of the persons or property designated herein, including all freight depots, yards, and grounds, used or necessary in the transportation or delivery of any such property. The term "transportation" as used in this act shall include locomotives, cars, and other vehicles, vessels, and all instrumentalities and facilities of shipment or carriage, irrespective of ownership or of any contract, express or implied, for the use thereof, and all services in connection with the receipt, delivery, elevation, and transfer in transit, ventilation, refrigeration or icing, storage, and handling of property transported. The term "transmission" as used in this act shall include the transmission of intelligence through the application of electrical energy or other use of electricity, whether by means of wire, cable, radio apparatus, or other wire or wireless conductors or appliances, and all instrumentalities and facilities for and services in connection with the receipt, forwarding, and delivery of messages, communications, or other intelligence so transmitted hereinafter also collectively called messages.

"'(4) It shall be the duty of every common carrier subject to this act engaged in the transportation of passengers or property to provide and furnish such transportation upon reasonable request therefor, and to establish through routes and just and reasonable rates, fares, and charges applicable thereto, and to provide reasonable facilities for operating through routes and to make reasonable rules and regulations with respect to the operation of through routes, and providing for reasonable compensation to those entitled thereto; and in case of joint rates, fares, or charges, to establish just, reasonable, and equitable divisions thereof as between the carriers subject to this act participating therein which shall not unduly prefer or prejudice any of such participating carriers.

"'(5) All charges made for any service rendered or to be rendered in the transportation of passengers or property or in the transmission of intelligence by wire or wireless as aforesaid, or in connection therewith, shall be just and reasonable, and every unjust and unreasonable charge for such service or any part thereof is prohibited and declared to be unlawful: *Provided*, That messages by wire or wireless subject to the provisions of this act may be classified into day, night, repeated, unrepeated, letter, commercial, press, Government, and such other classes as are just and reasonable, and different rates may be charged for the different classes of messages: *And provided further*, That nothing in this act shall be construed to prevent telephone, telegraph, and cable companies from entering into contracts with common carriers for the exchange of services.

"'(6) It is hereby made the duty of all common carriers subject to the provisions of this act to establish, observe, and enforce just and reasonable classifications of property for transportation, with reference to which rates, tariffs, regulations, or practices are or may be made or prescribed, and just and reasonable regulations and practices affecting classifications, rates, or tariffs, the issuance, form, and substance of tickets, receipts, and bills of lading, the manner and method of presenting, marking, packing, and delivering property for transportation, the facilities for transportation, the carrying of personal, sample, and excess baggage, and all other matters relating to or connected with the receiving, handling, transporting, storing, and delivery of property subject to the provisions of this act which may be necessary or proper to secure the safe and prompt receipt, handling, transportation, and delivery of property subject to the provisions of this act upon just and reasonable terms, and every unjust and unreasonable classification, regulation, and practice is prohibited and declared to be unlawful.'

"SEC. 401. The fifth, sixth, and seventh paragraphs of section 1 of the interstate commerce act, as such paragraphs appear in section 7 of the Commerce Court act, are hereby amended by inserting '(7)' at the beginning of such fifth paragraph, '(8)' at the beginning of such sixth paragraph, and '(9)' at the beginning of such seventh paragraph.

"SEC. 402. The paragraphs added to section 1 of the interstate commerce act by the act entitled 'An act to amend an act entitled "An act to regulate commerce," as amended, in respect of car service, and for other purposes,' approved May 29, 1917, are hereby amended to read as follows:

"'(10) The term "car service" in this act shall include the use, control, supply, movement, distribution, exchange, interchange, and return of locomotives, cars, and other vehicles used in the transportation of property, including special types of

equipment, and the supply of trains, by any carrier by railroad subject to this act.

"'(11) It shall be the duty of every carrier by railroad subject to this act to furnish safe and adequate car service and to establish, observe, and enforce just and reasonable rules, regulations, and practices with respect to car service; and every unjust and unreasonable rule, regulation, and practice with respect to car service is prohibited and declared to be unlawful.

"'(12) It shall also be the duty of every carrier by railroad to make just and reasonable distribution of cars for transportation of coal among the coal mines served by it, whether located upon its line or lines or customarily dependent upon it for car supply. During any period when the supply of cars available for such service does not equal the requirements of such mines it shall be the duty of the carrier to maintain and apply just and reasonable ratings of such mines and to count each and every car furnished to or used by any such mine for transportation of coal against the mine. Failure or refusal so to do shall be unlawful, and in respect of each car not so counted shall be deemed a separate offense, and the carrier, receiver, or operating trustee so failing or refusing shall forfeit to the United States the sum of $100 for each offense, which may be recovered in a civil action brought by the United States.

"'(13) The commission is hereby authorized by general or special orders to require all carriers by railroad subject to this act, or any of them, to file with it from time to time their rules and regulations with respect to car service, and the commission may, in its discretion, direct that such rules and regulations shall be incorporated in their schedules showing rates, fares, and charges for transportation, and be subject to any or all of the provisions of this act relating thereto.

"'(14) The commission may, after hearing, on a complaint or upon its own initiative without complaint, establish reasonable rules, regulations, and practices with respect to car service by carriers by railroad subject to this act, including the compensation to be paid for the use of any locomotive, car, or other vehicle not owned by the carrier using it, and the penalties or other sanctions for nonobservance of such rules, regulations or practices.

"'(15) Whenever the commission is of opinion that shortage of equipment, congestion of traffic, or other emergency requiring immediate action exists in any section of the country, the commission shall have, and it is hereby given, authority, either upon complaint or upon its own initiative without complaint, at once, if it so orders, without answer or other formal pleading by the interested carrier or carriers, and with or without notice, hearing, or the making or filing of a report, according as the commission may determine: (a) to suspend the operation of any or all rules, regulations, or practices then established with respect to car service for such time as may be determined by the commission; (b) to make such just and reasonable directions with respect to car service without regard to the ownership as between carriers of locomotives, cars, and other vehicles, during such emergency as in its opinion will best promote the service in the interest of the public and the commerce of the people, upon such terms of compensation as between the carriers as they may agree upon, or, in the event of their disagreement, as the commission may after subsequent hearing find to be just and reasonable; (c) to require such joint or common use of terminals, including main-line track or tracks for a reasonable distance outside of such terminals, as in its opinion will best meet the emergency and serve the public interest, and upon such terms as between the carriers as they may agree upon, or, in the event of their disagreement, as the commission may after subsequent hearing find to be just and reasonable; and (d) to give directions for preference or priority in transportation, embargoes, or movement of traffic under permits, at such time and for such periods as it may determine, and to modify, change, suspend, or annul them. In time of war or threatened war the President may certify to the commission that it is essential to the national defense and security that certain traffic shall have preference or priority in transportation, and the commission shall, under the power herein conferred, direct that such preference or priority be afforded.

"'(16) Whenever the commission is of opinion that any carrier by railroad subject to this act is for any reason unable to transport the traffic offered it so as properly to serve the public, it may, upon the same procedure as provided in paragraph (15), make such just and reasonable directions with respect to the handling, routing, and movement of the traffic of such carrier and its distribution over other lines of roads, as in the opinion of the commission will best promote the service in the interest of the public and the commerce of the people, and upon such terms as between the carriers as they may agree upon, or, in the event of their disagreement, as the commission may after subsequent hearing find to be just and reasonable.

"'(17) The directions of the commission as to car service and to the matters referred to in paragraphs (15) and (16) may be made through and by such agents or agencies as the commission shall designate and appoint for that purpose. It shall be the duty of all carriers by railroad subject to this act, and of their officers, agents, and employees, to obey strictly and conform promptly to such orders or directions of the commission, and in case of failure or refusal on the part of any carrier, receiver, or operating trustee to comply with any such order or direction such carrier, receiver, or trustee shall be liable to a penalty of not less than $100 nor more than $500 for each such offense and $50 for each and every day of the continuance of such offense, which shall accrue to the United States and may be recovered in a civil action brought by the United States: *Provided, however*, That nothing in this act shall impair or affect the right of a State, in the exercise of its police power, to require just and reasonable freight and passenger service for intrastate business, except in so far as such requirement is inconsistent with any lawful order of the commission made under the provisions of this act.

"'(18) After 90 days after this paragraph takes effect no carrier by railroad subject to this act shall undertake the extension of its line of railroad, or the construction of a new line of railroad, or shall acquire or operate any line of railroad, or extension thereof, or shall engage in transportation under this act over or by means of such additional or extended line of railroad, unless and until there shall first have been obtained from the commission a certificate that the present or future public convenience and necessity require or will require the construction, or operation, or construction and operation, of such additional or extended line of railroad, and no carrier by railroad subject to this act shall abandon all or any portion of a line of railroad, or the operation thereof, unless and until there shall first have been obtained from the commission a certificate that the present or future public convenience and necessity permit of such abandonment.

"'(19) The application for and issuance of any such certificate shall be under such rules and regulations as to hearings and other matters as the commission may from time to time prescribe, and the provisions of this act shall apply to all such proceedings. Upon receipt of any application for such certificate the commission shall cause notice thereof to be given to and a copy filed with the governor of each State in which such additional or extended line of railroad is proposed to be constructed or operated, or all or any portion of a line of railroad, or the operation thereof, is proposed to be abandoned, with the right to be heard as hereinafter provided with respect to the hearing of complaints or the issuance of securities; and said notice shall also be published for three consecutive weeks in some newspaper of general circulation in each county in or through which said line of railroad is constructed or operates.

"'(20) The commission shall have power to issue such certificate as prayed for, or to refuse to issue it, or to issue it for a portion or portions of a line of railroad, or extension thereof, described in the application, or for the partial exercise only of such right or privilege, and may attach to the issuance of the certificate such terms and conditions as in its judgment the public convenience and necessity may require. From and after issuance of such certificate, and not before, the carrier by railroad may, without securing approval other than such certificate, comply with the terms and conditions contained in or attached to the issuance of such certificate and proceed with the construction, operation, or abandonment covered thereby. Any construction, operation, or abandonment contrary to the provisions of this paragraph or of paragraph (18) or (19) of this section may be enjoined by any court of competent jurisdiction at the suit of the United States, the commission, any commission or regulating body of the State or States affected, or any party in interest; and any carrier which, or any director, officer, receiver, operating trustee, lessee, agent, or person, acting for or employed by such carrier, who knowingly authorizes, consents to, or permits any violation of the provisions of this paragraph or of paragraph (18) of this section, shall upon conviction thereof be punished by a fine of not more than $5,000 or by imprisonment for not more than three years, or both.

"'(21) The commission may, after hearing, in a proceeding upon complaint or upon its own initiative without complaint, authorize or require by order any carrier by railroad subject to this act, party to such proceeding, to provide itself with safe and adequate facilities for performing as a common carrier its car service as that term is used in this act, and to extend its line or lines: *Provided*, That no such authorization or order shall be made unless the commission finds, as to such extension, that it is

reasonably required in the interest of public convenience and necessity, or as to such extension or facilities that the expense involved therein will not impair the ability of the carrier to perform its duty to the public. Any carrier subject to this act which refuses or neglects to comply with any order of the commission made in pursuance of this paragraph shall be liable to a penalty of $100 for each day during which such refusal or neglect continues, which shall accrue to the United States and may be recovered in a civil action brought by the United States.

"'(22) The authority of the commission conferred by paragraphs (18) to (21), both inclusive, shall not extend to the construction or abandonment of spur, industrial, team, switching or side tracks, located or to be located wholly within one State, or of street, suburban, or interurban electric railways, which are not operated as a part or parts of a general steam railroad system of transportation.'

"SEC. 403. The fifteenth and sixteenth paragraphs of section 1 of the interstate commerce act, added to such section by the act entitled 'An act to amend the act to regulate commerce, as amended, and for other purposes,' approved August 10, 1917, are hereby amended by inserting '(23)' at the beginning of such fifteenth paragraph and '(24)' at the beginning of such sixteenth paragraph.

"SEC. 404. Section 2 of the interstate commerce act is hereby amended to read as follows:

"'SEC. 2. That if any common carrier subject to the provisions of this act shall, directly or indirectly, by any special rate, rebate, drawback, or other device, charge, demand, collect, or receive from any person or persons a greater or less compensation for any service rendered, or to be rendered, in the transportation of passengers or property or the transmission of intelligence, subject to the provisions of this act, than it charges, demands, collects, or receives from any other person or persons for doing for him or them a like and contemporaneous service in the transportation or transmission of a like kind of traffic or message under substantially similar circumstances and conditions, such common carrier shall be deemed guilty of unjust discrimination, which is hereby prohibited and declared to be unlawful.'

"SEC. 405. The first paragraph of section 3 of the interstate commerce act is hereby amended by inserting '(1)' after the section number at the beginning thereof.

"Section 3 of the interstate commerce act is hereby amended by adding after the first paragraph a new paragraph to read as follows:

"'(2) From and after July 1, 1920, no carrier by railroad subject to the provisions of this act shall deliver or relinquish possession at destination of any freight transported by it until all tariff rates and charges thereon have been paid, except under such rules and regulations as the commission may from time to time prescribe to assure prompt payment of all such rates and charges and to prevent unjust discrimination: *Provided*, That the provisions of this paragraph shall not be construed to prohibit any carrier from extending credit in connection with rates and charges on freight transported for the United States, for any department, bureau, or agency thereof, or for any State or Territory or political subdivision thereof, or for the District of Columbia.'

"The second paragraph of section 3 of the interstate commerce act is hereby amended to read as follows:

"'(3) All carriers, engaged in the transportation of passengers or property, subject to the provisions of this act, shall, according to their respective powers, afford all reasonable, proper, and equal facilities for the interchange of traffic between their respective lines, and for the receiving, forwarding, and delivering of passengers or property to and from their several lines and those connecting therewith, and shall not discriminate in their rates, fares, and charges between such connecting lines, or unduly prejudice any such connecting line in the distribution of traffic that is not specifically routed by the shipper.

"'(4) If the commission finds it to be in the public interest and to be practicable, without substantially impairing the ability of a carrier owning or entitled to the enjoyment of terminal facilities to handle its own business, it shall have power to require the use of any such terminal facilities, including main-line track or tracks for a reasonable distance outside of such terminal, of any carrier, by another carrier or other carriers, on such terms and for such compensation as the carriers affected may agree upon, or, in the event of a failure to agree, as the commission may fix as just and reasonable for the use so required, to be ascertained on the principle controlling compensation in condemnation proceedings. Such compensation shall be paid or adequately secured before the enjoyment of the use may be commenced. If under this paragraph the use of such terminal facilities of any carrier is required to be given to another carrier or other carriers, and the carrier whose terminal facilities are required to be so used is not satisfied with the terms fixed for such use, or if the amount of compensation so fixed is not duly and promptly paid, the carrier whose terminal facilities have thus been required to be given to another carrier or other carriers shall be entitled to recover, by suit or action against such other carrier or carriers, proper damages for any injuries sustained by it as the result of compliance with such requirement, or just compensation for such use, or both, as the case may be.'

"SEC. 406. Section 4 of the interstate commerce act is hereby amended to read as follows:

"'SEC. 4. (1) That it shall be unlawful for any common carrier subject to the provisions of this act to charge or receive any greater compensation in the aggregate for the transportation of passengers, or of like kind of property, for a shorter than for a longer distance over the same line or route in the same direction, the shorter being included within the longer distance, or to charge any greater compensation as a through rate than the aggregate of the intermediate rates subject to the provisions of this act, but this shall not be construed as authorizing any common carrier within the terms of this act to charge or receive as great compensation for a shorter as for a longer distance: *Provided*, That upon application to the commission such common carrier may in special cases, after investigation, be authorized by the commission to charge less for longer than for shorter distances for the transportation of passengers or property; and the commission may from time to time prescribe the extent to which such designated common carrier may be relieved from the operation of this section; but in exercising the authority conferred upon it in this proviso the commission shall not permit the establishment of any charge to or from the more distant point that is not reasonably compensatory for the service performed; and if a circuitous rail line or route is, because of such circuity, granted authority to meet the charges of a more direct line or route to or from competitive points and to maintain higher charges to or from intermediate points on its line, the authority shall not include intermediate points as to which the haul of the petitioning line or route is not longer than that of the direct line or route between the competitive points; and no such authorization shall be granted on account of merely potential water competition not actually in existence: *And provided further*, That rates, fares, or charges existing at the time of the passage of this amendatory act by virtue of orders of the commission or as to which application has theretofore been filed with the commission and not yet acted upon, shall not be required to be changed by reason of the provisions of this section until the further order of or a determination by the commission.

"'(2) Wherever a carrier by railroad shall in competition with a water route or routes reduce the rates on the carriage of any species of freight to or from competitive points it shall not be permitted to increase such rates unless after hearing by the commission it shall be found that such proposed increase rests upon changed conditions other than the elimination of water competition.'

"SEC. 407. The first paragraph of section 5 of the interstate-commerce act is hereby amended to read as follows:

"'SEC. 5. (1) That, except upon specific approval by order of the commission as in this section provided, and except as provided in paragraph (16) of section 1 of this act, it shall be unlawful for any common carrier subject to this act to enter into any contract, agreement, or combination with any other common carrier or carriers for the pooling of freights of different and competing railroads, or to divide between them the aggregate or net proceeds of the earnings of such railroads, or any portion thereof; and in any case of an agreement for the pooling of freights as aforesaid each day of its continuance shall be deemed a separate offense: *Provided*, That whenever the commission is of opinion, after hearing upon application of any carrier or carriers engaged in the transportation of passengers or property subject to this act, or upon its own initiative, that the division of their traffic or earnings, to the extent indicated by the commission, will be in the interest of better service to the public, or economy in operation, and will not unduly restrain competition, the commission shall have authority by order to approve and authorize, if assented to by all the carriers involved, such division of traffic or earnings, under such rules and regulations, and for such consideration as between such carriers and upon such terms and conditions, as shall be found by the commission to be just and reasonable in the premises.

"'(2) Whenever the commission is of opinion, after hearing, upon application of any carrier or carriers engaged in the transportation of passengers or property subject to this act, that the acquisition, to the extent indicated by the commission, by one of such carriers of the control of any other such carrier

or carriers either under a lease or by the purchase of stock or in any other manner not involving the consolidation of such carriers into a single system for ownership and operation, will be in the public interest, the commission shall have authority by order to approve and authorize such acquisition, under such rules and regulations and for such consideration and on such terms and conditions as shall be found by the commission to be just and reasonable in the premises.

"'(3) The commission may from time to time, for good cause shown, make such orders, supplemental to any order made under paragraph (1) or (2), as it may deem necessary or appropriate.

"'(4) The commission shall as soon as practicable prepare and adopt a plan for the consolidation of the railway properties of the continental United States into a limited number of systems. In the division of such railways into such systems under such plan, competition shall be preserved as fully as possible and wherever practicable the existing routes and channels of trade and commerce shall be maintained. Subject to the foregoing requirements, the several systems shall be so arranged that the cost of transportation as between competitive systems and as related to the values of the properties through which the service is rendered shall be the same, so far as practicable, so that these systems can employ uniform rates in the movement of competitive traffic and under efficient management earn substantially the same rate of return upon the value of their respective railway properties.

"'(5) When the commission has agreed upon a tentative plan, it shall give the same due publicity and upon reasonable notice, including notice to the governor of each State, shall hear all persons who may file or present objections thereto. The commission is authorized to prescribe a procedure for such hearings and to fix a time for bringing them to a close. After the hearings are at an end, the commission shall adopt a plan for such consolidation and publish the same; but it may at any time thereafter, upon its own motion or upon application, reopen the subject for such changes or modifications as in its judgment will promote the public interest. The consolidations herein provided for shall be in harmony with such plan.

"'(6) It shall be lawful for two or more carriers by railroad, subject to this act, to consolidate their properties or any part thereof, into one corporation for the ownership, management, and operation of the properties theretofore in separate ownership, management, and operation, under the following conditions:

"'(a) The proposed consolidation must be in harmony with and in furtherance of the complete plan of consolidation mentioned in paragraph (5) and must be approved by the commission;

"'(b) The bonds at par of the corporation which is to become the owner of the consolidated properties, together with the outstanding capital stock at par of such corporation, shall not exceed the value of the consolidated properties as determined by the commission. The value of the properties sought to be consolidated shall be ascertained by the commission under section 19a of this act, and it shall be the duty of the commission to proceed immediately to the ascertainment of such value for the properties involved in a proposed consolidation upon the filing of the application for such consolidation.

"'(c) Whenever two or more carriers propose a consolidation under this section, they shall present their application therefor to the commission, and thereupon the commission shall notify the governor of each State in which any part of the properties sought to be consolidated is situated and the carriers involved in the proposed consolidation, of the time and place for a public hearing. If after such hearing the commission finds that the public interest will be promoted by the consolidation and that the conditions of this section have been or will be fulfilled, it may enter an order approving and authorizing such consolidation, with such modifications and upon such terms and conditions as it may prescribe, and thereupon such consolidation may be effected, in accordance with such order, if all the carriers involved assent thereto, the law of any State or the decision or order of any State authority to the contrary notwithstanding.

"'(7) The power and authority of the commission to approve and authorize the consolidation of two or more carriers shall extend and apply to the consolidation of four express companies into the American Railway Express Co., a Delaware corporation, if application for such approval and authority is made to the commission within 30 days after the passage of this amendatory act; and pending the decision of the commission such consolidation shall not be dissolved.

"'(8) The carriers affected by any order made under the foregoing provisions of this section and any corporation organized to effect a consolidation approved and authorized in such order shall be, and they are hereby, relieved from the operation of the "antitrust laws," as designated in section 1 of the act entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, and of all other restraints or prohibitions by law, State or Federal, in so far as may be necessary to enable them to do anything authorized or required by any order made under and pursuant to the foregoing provisions of this section.'

"SEC. 408. The paragraph of section 5 of the interstate commerce act, added to such section by section 11 of the act entitled 'An act to provide for the opening, maintenance, protection, and operation of the Panama Canal and the sanitation and government of the Canal Zone,' approved August 24, 1912, is hereby amended by inserting '(9)' at the beginning thereof.

"The two paragraphs of section 11 of such act of August 24, 1912, which follow the paragraph added by such section to section 5 of the interstate commerce act, are hereby made a part of section 5 of the interstate commerce act. The first paragraph so made a part of section 5 of the interstate commerce act is hereby amended by inserting '(10)' at the beginning thereof, and the second such paragraph is hereby amended by inserting '(11)' at the beginning thereof.

"SEC. 409. Section 6 of the interstate commerce act is hereby amended by inserting '(1)' after the section number at the beginning of the first paragraph, '(2)' at the beginning of the second paragraph, '(3)' at the beginning of the third paragraph, '(4)' at the beginning of the fourth paragraph, '(5)' at the beginning of the fifth paragraph, '(6)' at the beginning of the sixth paragraph, '(7)' at the beginning of the seventh paragraph, '(8)' at the beginning of the eighth paragraph, '(9)' at the beginning of the ninth paragraph, '(10)' at the beginning of the tenth paragraph, '(11)' at the beginning of the eleventh paragraph, '(12)' at the beginning of the twelfth paragraph, and '(13)' at the beginning of the thirteenth paragraph.

"SEC. 410. The third paragraph of section 6 of the interstate commerce act is hereby amended by striking out the period at the end thereof and inserting in lieu thereof a colon and the following: '*Provided further*, That the commission is hereby authorized to make suitable rules and regulations for the simplification of schedules of rates, fares, charges, and classifications and to permit in such rules and regulations the filing of an amendment of or change in any rate, fare, charge, or classification without filing complete schedules covering rates, fares, charges, or classifications not changed if, in its judgment, not inconsistent with the public interest.'

"SEC. 411. The seventh paragraph of section 6 of the interstate commerce act is hereby amended by striking out the proviso at the end.

"SEC. 412. The two paragraphs under (a) of the thirteenth paragraph of section 6 of the interstate commerce act are hereby amended so as to be combined into one paragraph to read as follows:

"'(a) To establish physical connection between the lines of the rail carrier and the dock at which interchange of passengers or property is to be made by directing the rail carrier to make suitable connection between its line and a track or tracks which have been constructed from the dock to the limits of the railroad right of way, or by directing either or both the rail and water carrier, individually or in connection with one another, to construct and connect with the lines of the rail carrier a track or tracks to the dock. The commission shall have full authority to determine and prescribe the terms and conditions upon which these connecting tracks shall be operated, and it may, either in the construction or the operation of such tracks, determine what sum shall be paid to or by either carrier: *Provided*, That construction required by the commission under the provisions of this paragraph shall be subject to the same restrictions as to findings of public convenience and necessity and other matters as is construction required under section 1 of this act.'

"SEC. 413. Paragraph (c) of the thirteenth paragraph of section 6 of the interstate commerce act is hereby amended to read as follows:

"'(c) To establish proportional rates, or maximum, or minimum, or maximum and minimum proportional rates, by rail to and from the ports to which the traffic is brought, or from which it is taken by the water carrier, and to determine to what traffic and in connection with what vessels and upon what terms and conditions such rates shall apply. By proportional rates are meant those which differ from the corresponding local rates to and from the port and which apply only to traffic which has been brought to the port or is carried from the port by a common carrier by water.'

"SEC. 414. Section 10 of the interstate commerce act is hereby amended by inserting '(1)' after the section number at the beginning of the first paragraph, '(2)' at the beginning of the

second paragraph, '(3)' at the beginning of the third paragraph, and '(4)' at the beginning of the fourth paragraph, and by inserting after the words 'transportation of passengers or property,' in the proviso in the first paragraph thereof, the words 'or the transmission of intelligence.'

"SEC. 415. Section 12 of the interstate commerce act is hereby amended by inserting '(1)' after the section number at the beginning of the first paragraph, '(2)' at the beginning of the second paragraph, '(3)' at the beginning of the third paragraph, '(4)' at the beginning of the fourth paragraph, '(5)' at the beginning of the fifth paragraph, '(6)' at the beginning of the sixth paragraph, and '(7)' at the beginning of the seventh paragraph.

"SEC. 416. Section 13 of the interstate commerce act is hereby amended by inserting '(1)' after the section number at the beginning of the first paragraph and '(2)' at the beginning of the second paragraph, and by adding at the end thereof two new paragraphs to read as follows:

"'(3) Whenever in any investigation under the provisions of this act, or in any investigation instituted upon petition of the carrier concerned, which petition is hereby authorized to be filed, there shall be brought in issue any rate, fare, charge, classification, regulation, or practice made or imposed by authority of any State, or initiated by the President during the period of Federal control, the commission, before proceeding to hear and dispose of such issue, shall cause the State or States interested to be notified of the proceeding. The commission may confer with the authorities of any State having regulatory jurisdiction over the class of persons and corporations subject to this act with respect to the relationship between rate structures and practices of carriers subject to the jurisdiction of such State bodies and of the commission; and to that end is authorized and empowered, under rules to be prescribed by it, and which may be modified from time to time, to hold joint hearings with any such State regulating bodies on any matters wherein the commission is empowered to act and where the rate-making authority of a State is or may be affected by the action taken by the commission. The commission is also authorized to avail itself of the cooperation, services, records, and facilities of such State authorities in the enforcement of any provision of this act.

"'(4) Whenever in any such investigation the commission, after full hearing, finds that any such rate, fare, charge, classification, regulation, or practice causes any undue or unreasonable advantage, preference, or prejudice as between persons or localities in intrastate commerce on the one hand and interstate or foreign commerce on the other hand, or any undue, unreasonable, or unjust discrimination against interstate or foreign commerce, which is hereby forbidden and declared to be unlawful, it shall prescribe the rate, fare, or charge, or the maximum or minimum, or maximum and minimum, thereafter to be charged, and the classification, regulation, or practice thereafter to be observed, in such manner as, in its judgment, will remove such advantage, preference, prejudice, or discrimination. Such rates, fares, charges, classifications, regulations, and practices shall be observed while in effect by the carriers parties to such proceeding affected thereby, the law of any State or the decision or order of any State authority to the contrary notwithstanding.'

"SEC. 417. Section 14 of the interstate commerce act is hereby amended by inserting '(1)' after the section number at the beginning of the first paragraph, '(2)' at the beginning of the second paragraph, and '(3)' at the beginning of the third paragraph.

"SEC. 418. The first four paragraphs of section 15 of the interstate commerce act are hereby amended to read as follows:

"'SEC. 15. (1) That whenever, after full hearing, upon a complaint made as provided in section 13 of this act, or after full hearing under an order for investigation and hearing made by the commission on its own initiative, either in extension of any pending complaint or without any complaint whatever, the commission shall be of opinion that any individual or joint rate, fare, or charge whatsoever demanded, charged, or collected by any common carrier or carriers subject to this act for the transportation of persons or property or for the transmission of messages as defined in the first section of this act, or that any individual or joint classification, regulation, or practice whatsoever of such carrier or carriers subject to the provisions of this act, is or will be unjust or unreasonable or unjustly discriminatory or unduly preferential or prejudicial, or otherwise in violation of any of the provisions of this act, the commission is hereby authorized and empowered to determine and prescribe what will be the just and reasonable individual or joint rate, fare, or charge, or rates, fares, or charges, to be thereafter observed in such case, or the maximum or minimum, or maximum and minimum, to be charged (or, in the case of a through route where one of the carriers is a water line, the maximum rates, fares, and charges applicable thereto), and what individual or joint classification, regulation, or practice is or will be just, fair, and reasonable, to be thereafter followed, and to make an order that the carrier or carriers shall cease and desist from such violation to the extent to which the commission finds that the same does or will exist, and shall not thereafter publish, demand, or collect any rate, fare, or charge for such transportation or transmission other than the rate, fare, or charge so prescribed, or in excess of the maximum or less than the minimum so prescribed, as the case may be, and shall adopt the classification and shall conform to and observe the regulation or practice so prescribed.

"'(2) Except as otherwise provided in this act, all orders of the commission, other than orders for the payment of money, shall take effect within such reasonable time, not less than 30 days, and shall continue in force until its further order, or for a specified period of time, according as shall be prescribed in the order, unless the same shall be suspended or modified or set aside by the commission, or be suspended or set aside by a court of competent jurisdiction.

"'(3) The commission may, and it shall whenever deemed by it to be necessary or desirable in the public interest, after full hearing upon complaint or upon its own initiative without a complaint, establish through routes, joint classifications, and joint rates, fares, or charges, applicable to the transportation of passengers or property, or the maxima or minima, or maxima and minima, to be charged (or, in the case of a through route where one of the carriers is a water line, the maximum rates, fares, and charges applicable thereto), and the divisions of such rates, fares, or charges as hereinafter provided, and the terms and conditions under which such through routes shall be operated; and this provision, except as herein otherwise provided, shall apply when one of the carriers is a water line. The commission shall not, however, establish any through route, classification, or practice, or any rate, fare, or charge, between street electric passenger railways not engaged in the general business of transporting freight in addition to their passenger and express business, and railroads of a different character; nor shall the commission have the right to establish any route, classification, or practice, or any rate, fare, or charge when the transportation is wholly by water, and any transportation by water affected by this act shall be subject to the laws and regulations applicable to transportation by water.

"'(4) In establishing any such through route the commission shall not (except as provided in sec. 3, and except where one of the carriers is a water line), require any carrier by railroad, without its consent, to embrace in such route substantially less than the entire length of its railroad and of any intermediate railroad operated in conjunction and under a common management or control therewith, which lies between the termini of such proposed through route, unless such inclusion of lines would make the through route unreasonably long as compared with another practicable through route which could otherwise be established: *Provided*, That in time of shortage of equipment, congestion of traffic, or other emergency declared by the commission it may (either upon complaint or upon its own initiative without complaint, at once, if it so orders without answer or other formal pleadings by the interested carrier or carriers, and with or without notice, hearing, or the making or filing of a report, according as the commission may determine) establish temporarily such through routes as in its opinion are necessary or desirable in the public interest.

"'(5) Transportation wholly by railroad of ordinary live stock in car-load lots destined to or received at public stockyards shall include all necessary service of unloading and reloading en route, delivery at public stockyards of inbound shipments into suitable pens, and receipt and loading at such yards of outbound shipments, without extra charge therefor to the shipper, consignee or owner, except in cases where the unloading or reloading en route is at the request of the shipper, consignee or owner, or to try an intermediate market, or to comply with quarantine regulations. The commission may prescribe or approve just and reasonable rules governing each of such excepted services. Nothing in this paragraph shall be construed to affect the duties and liabilities of the carriers now existing by virtue of law respecting the transportation of other than ordinary live stock, or the duty of performing service as to shipments other than those to or from public stockyards.

"'(6) Whenever, after full hearing upon complaint or upon its own initiative, the commission is of opinion that the divisions of joint rates, fares, or charges, applicable to the transportation

of passengers or property, are or will be unjust, unreasonable, inequitable, or unduly preferential or prejudicial as between the carriers parties thereto (whether agreed upon by such carriers, or any of them, or otherwise established), the commission shall by order prescribe the just, reasonable, and equitable divisions thereof to be received by the several carriers, and in cases where the joint rate, fare, or charge was established pursuant to a finding or order of the commission and the divisions thereof are found by it to have been unjust, unreasonable, or inequitable, or unduly preferential or prejudicial, the commission may also by order determine what (for the period subsequent to the filing of the complaint or petition or the making of the order of investigation) would have been the just, reasonable, and equitable divisions thereof to be received by the several carriers, and require adjustment to be made in accordance therewith. In so prescribing and determining the divisions of joint rates, fares and charges, the commission shall give due consideration, among other things, to the efficiency with which the carriers concerned are operated, the amount of revenue required to pay their respective operating expenses, taxes, and a fair return on their railway property held for and used in the service of transportation, and the importance to the public of the transportation services of such carriers; and also whether any particular participating carrier is an originating, intermediate, or delivering line, and any other fact or circumstance which would ordinarily, without regard to the mileage haul, entitle one carrier to a greater or less proportion than another carrier of the joint rate, fare or charge.

"'(7) Whenever there shall be filed with the commission any schedule stating a new individual or joint rate, fare, or charge, or any new individual or joint classification, or any new individual or joint regulation or practice affecting any rate, fare, or charge, the commission shall have, and it is hereby given, authority, either upon complaint or upon its own initiative without complaint, at once, and if it so orders without answer or other formal pleading by the interested carrier or carriers, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such rate, fare, charge, classification, regulation, or practice; and pending such hearing and the decision thereon the commission, upon filing with such schedule and delivering to the carrier or carriers affected thereby a statement in writing of its reasons for such suspension, may suspend the operation of such schedule and defer the use of such rate, fare, charge, classification, regulation, or practice, but not for a longer period than 120 days beyond the time when it would otherwise go into effect; and after full hearing, whether completed before or after the rate, fare, charge, classification, regulation, or practice goes into effect, the commission may make such order with reference thereto as would be proper in a proceeding initiated after it had become effective. If any such hearing can not be concluded within the period of suspension, as above stated, the commission may extend the time of suspension for a further period not exceeding 30 days, and if the proceeding has not been concluded and an order made at the expiration of such 30 days, the proposed change of rate, fare, charge, classification, regulation, or practice shall go into effect at the end of such period, but, in case of a proposed increased rate or charge for or in respect to the transportation of property, the commission may by order require the interested carrier or carriers to keep accurate account in detail of all amounts received by reason of such increase, specifying by whom and in whose behalf such amounts are paid, and upon completion of the hearing and decision may by further order require the interested carrier or carriers to refund, with interest, to the persons in whose behalf such amounts were paid such portion of such increased rates or charges as by its decision shall be found not justified. At any hearing involving a rate, fare, or charge increased after January 1, 1910, or of a rate, fare, or charge sought to be increased after the passage of this act, the burden of proof to show that the increased rate, fare, or charge, or proposed increased rate, fare, or charge, is just and reasonable shall be upon the carrier, and the commission shall give to the hearing and decision of such questions preference over all other questions pending before it and decide the same as speedily as possible.'

"SEC. 419. The fifth paragraph of section 15 of the interstate commerce act is hereby amended by inserting '(8)' at the beginning of such paragraph.

"SEC. 420. Section 15 of the interstate commerce act is hereby amended by inserting after the fifth paragraph two new paragraphs, to read as follows:

"'(9) Whenever property is diverted or delivered by one carrier to another carrier contrary to routing instructions in the bill of lading, unless such diversion or delivery is in compliance with a lawful order, rule, or regulation of the commission, such carriers shall, in a suit or action in any court of competent jurisdiction, be jointly and severally liable to the carrier thus deprived of its right to participate in the haul of the property for the total amount of the rate or charge it would have received had it participated in the haul of the property. The carrier to which the property is thus diverted shall not be liable in such suit or action if it can show, the burden of proof being upon it, that before carrying the property it had no notice, by bill of lading, waybill, or otherwise, of the routing instructions. In any judgment which may be rendered the plaintiff shall be allowed to recover against the defendant a reasonable attorney's fee to be taxed in the case.

"'(10) With respect to traffic not routed by the shipper, the commission may, whenever the public interest and a fair distribution of the traffic require, direct the route which such traffic shall take after it arrives at the terminus of one carrier or at a junction point with another carrier, and is to be there delivered to another carrier.'

"SEC. 421. Section 15 of the interstate commerce act is hereby further amended by inserting '(11)' at the beginning of the sixth paragraph, '(12)' at the beginning of the seventh paragraph, '(13)' at the beginning of the eighth paragraph, and '(14)' at the beginning of the ninth paragraph.

"SEC. 422. The interstate commerce act is further amended by inserting after section 15 a new section to be known as section 15a and to read as follows:

"'SEC. 15a. (1) When used in this section the term "rates" means rates, fares, and charges, and all classications, regulations, and practices relating thereto; the term "carrier" means a carrier by railroad or partly by railroad and partly by water, within the continental United States, subject to this act, excluding (a) sleeping-car companies and express companies, (b) street or suburban electric railways unless operated as a part of a general steam railroad system of transportation, (c) interurban electric railways unless operated as a part of a general steam railroad system of transportation or engaged in the general transportation of freight, and (d) any belt-line railroad, terminal switching railroad, or other terminal facility, owned exclusively and maintained, operated, and controlled by any State or political subdivision thereof; and the term "net railway operating income" means railway operating income, including in the computation thereof debits and credits arising from equipment rents and joint facility rents.

"'(2) In the exercise of its power to prescribe just and reasonable rates the commission shall initiate, modify, establish or adjust such rates so that carriers as a whole (or as a whole in each of such rate groups or territories as the commission may from time to time designate) will, under honest, efficient, and economical management and reasonable expenditures for maintenance of way, structures, and equipment, earn an aggregate annual net railway operating income equal, as nearly as may be, to a fair return upon the aggregate value of the railway property of such carriers held for and used in the service of transportation: *Provided*, That the commission shall have reasonable latitude to modify or adjust any particular rate which it may find to be unjust or unreasonable, and to prescribe different rates for different sections of the country.

"'(3) The commission shall from time to time determine and make public what percentage of such aggregate property value constitutes a fair return thereon, and such percentage shall be uniform for all rate groups or territories which may be designated by the commission. In making such determination it shall give due consideration, among other things, to the transportation needs of the country and the necessity (under honest, efficient, and economical management of existing transportation facilities) of enlarging such facilities in order to provide the people of the United States with adequate transportation: *Provided*, That during the two years beginning March 1, 1920, the commission shall take as such fair return a sum equal to 5½ per cent of such aggregate value, but may, in its discretion, add thereto a sum not exceeding one-half of 1 per cent of such aggregate value to make provision in whole or in part for improvements, betterments, or equipment, which, according to the accounting system prescribed by the commission, are chargeable to capital account.

"'(4) For the purposes of this section, such aggregate value of the property of the carriers shall be determined by the commission from time to time and as often as may be necessary. The commission may utilize the results of its investigation under section 19a of this act, in so far as deemed by it available, and shall give due consideration to all the elements of value recognized by the law of the land for rate-making purposes, and shall give to the property investment account of the carriers only that consideration which under such law it is entitled to in establishing values for rate-making purposes.

Whenever pursuant to section 19a of this act the value of the railway property of any carrier held for and used in the service of transportation has been finally ascertained, the value so ascertained shall be deemed by the commission to be the value thereof for the purpose of determining such aggregate value.

"'(5) Inasmuch as it is impossible (without regulation and control in the interest of the commerce of the United States considered as a whole) to establish uniform rates upon competitive traffic which will adequately sustain all the carriers which are engaged in such traffic and which are indispensable to the communities to which they render the service of transportation, without enabling some of such carriers to receive a net railway operating income substantially and unreasonably in excess of a fair return upon the value of their railway property held for and used in the service of transportation, it is hereby declared that any carrier which receives such an income so in excess of a fair return shall hold such part of the excess, as hereinafter prescribed, as trustee for, and shall pay it to, the United States.

"'(6) If, under the provisions of this section, any carrier receives for any year a net railway operating income in excess of 6 per cent of the value of the railway property held for and used by it in the service of transportation, one-half of such excess shall be placed in a reserve fund established and maintained by such carrier, and the remaining one-half thereof shall, within the first four months following the close of the period for which such computation is made, be recoverable by and paid to the commission for the purpose of establishing and maintaining a general railroad contingent fund as hereinafter described. For the purposes of this paragraph the value of the railway property and the net railway operating income of a group of carriers, which the commission finds are under common control and management and are operated as a single system, shall be computed for the system as a whole irrespective of the separate ownership and accounting returns of the various parts of such system. In the case of any carrier which has accepted the provisions of section 209 of this amendatory act the provisions of this paragraph shall not be applicable to the income for any period prior to September 1, 1920. The value of such railway property shall be determined by the commission in the manner provided in paragraph (4).

"'(7) For the purpose of paying dividends or interest on its stocks, bonds, or other securities, or rent for leased roads, a carrier may draw from the reserve fund established and maintained by it under the provisions of this section to the extent that its net railway operating income for any year is less than a sum equal to 6 per cent of the value of the railway property held for and used by it in the service of transportation, determined as provided in paragraph (6); but such fund shall not be drawn upon for any other purpose.

"'(8) Such reserve fund need not be accumulated and maintained by any carrier beyond a sum equal to 5 per cent of the value of its railway property determined as herein provided, and when such fund is so accumulated and maintained the portion of its excess income which the carrier is permitted to retain under paragraph (6) may be used by it for any lawful purpose.

"'(9) The commission shall prescribe rules and regulations for the determination and recovery of the excess income payable to it under this section, and may require such security and prescribe such reasonable terms and conditions in connection therewith as it may find necessary. The commission shall make proper adjustments to provide for the computation of excess income for a portion of a year and for a year in which a change in the percentage constituting a fair return or in the value of a carrier's railway property becomes effective.

"'(10) The general railroad contingent fund so to be recoverable by and paid to the commission and all accretions thereof shall be a revolving fund and shall be administered by the commission. It shall be used by the commission in furtherance of the public interest in railway transportation either by making loans to carriers to meet expenditures for capital account or to refund maturing securities originally issued for capital account, or by purchasing transportation equipment and facilities and leasing the same to carriers, as hereinafter provided. Any moneys in the fund not so employed shall be invested in obligations of the United States or deposited in authorized depositaries of the United States subject to the rules promulgated from time to time by the Secretary of the Treasury relating to Government deposits.

"'(11) A carrier may at any time make application to the commission for a loan from the general railroad contingent fund, setting forth the amount of the loan and the term for which it is desired, the purpose of the loan and the uses to which it will be applied, the present and prospective ability of the applicant to repay the loan and meet the requirements of its obligations in that regard, the character and value of the security offered, and the extent to which the public convenience and necessity will be served. The application shall be accompanied by statements showing such facts and details as the commission may require with respect to the physical situation, ownership, capitalization, indebtedness, contract obligations, operation, and earning power of the applicant, together with such other facts relating to the propriety and expediency of granting the loan applied for and the ability of the applicant to make good the obligation, as the commission may deem pertinent to the inquiry.

"'(12) If the commission, after such hearing and investigation, with or without notice, as it may direct, finds that the making, in whole or in part, of the proposed loan from the general railroad contingent fund is necessary to enable the applicant properly to meet the transportation needs of the public, and that the prospective earning power of the applicant and the character and value of the security offered are such as to furnish reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and to meet its other obligations in connection with such loan, the commission may make a loan to the applicant from such railroad contingent fund, in such amount, for such length of time, and under such terms and conditions as it may deem proper. The commission shall also prescribe the security to be furnished, which shall be adequate to secure the loan. All such loans shall bear interest at the rate of 6 per cent per annum, payable semiannually to the commission. Such loans when repaid, and all interest paid thereon, shall be placed in the general railroad contingent fund.

"'(13) A carrier may at any time make application to the commission for the lease to it of transportation equipment or facilities, purchased from the general railroad contingent fund, setting forth the kind and amount of such equipment or facilities and the term for which it is desired to be leased, the uses to which it is proposed to put such equipment or facilities, the present and prospective ability of the applicant to pay the rental charges thereon and to meet the requirements of its obligations under the lease, and the extent to which the public convenience and necessity will be served. The application shall be accompanied by statements showing such facts and details as the commission may require with respect to the physical situation, ownership, capitalization, indebtedness, contract obligations, operation, and earning power of the applicant, together with such other facts relating to the propriety and expediency of leasing such equipment or facilities to the applicant as the commission may deem pertinent to the inquiry.

"'(14) If the commission, after such hearing and investigation, with or without notice, as it may direct, finds that the leasing to the applicant of such equipment or facilities, in whole or in part, is necessary to enable the applicant properly to meet the transportation needs of the public, and that the prospective earning power of the applicant is such as to furnish reasonable assurance of the applicant's ability to pay promptly the rental charges and meet its other obligations under such lease, the commission may lease such equipment or facilities purchased by it from the general railroad contingent fund, to the applicant for such length of time, and under such terms and conditions as it may deem proper. The rental charges provided in every such lease shall be at least sufficient to pay a return of 6 per cent per annum, plus allowance for depreciation determined as provided in paragraph (5) of section 20 of this act, upon the value of the equipment or facilities leased thereunder. All rental charges and other payments received by the commission in connection with such equipment and facilities, including amounts received under any sale thereof, shall be placed in the general railroad contingent fund.

"'(15) The commission may from time to time purchase, contract for the construction, repair and replacement of, and sell, equipment and facilities, and enter into and carry out contracts and other obligations in connection therewith, to the extent that moneys included in the general railroad contingent fund are available therefor, and in so far as necessary to enable it to secure and supply equipment and facilities to carriers whose applications therefor are approved under the provisions of this section, and to maintain and dispose of such equipment and facilities.

"'(16) The commission may from time to time prescribe such rules and regulations as it deems necessary to carry out the provisions of this section respecting the making of loans and the lease of equipment and facilities.

"'(17) The provisions of this section shall not be construed as depriving shippers of their right to reparation in case of overcharges, unlawfully excessive or discriminatory rates, or rates excessive in their relation to other rates, but no shipper

shall be entitled to recover upon the sole ground that any particular rate may reflect a proportion of excess income to be paid by the carrier to the commission in the public interest under the provisions of this section.

"'(18) Any carrier, or any corporation organized to construct and operate a railroad, proposing to undertake the construction and operation of a new line of railroad may apply to the commission for permission to retain for a period not to exceed 10 years all or any part of its earnings derived from such new construction in excess of the amount heretofore in this section provided, for such disposition as it may lawfully make of the same, and the commission may, in its discretion, grant such permission, conditioned, however, upon the completion of the work of construction within a period to be designated by the commission in its order granting such permission.'

"SEC. 423. The first paragraph of section 16 of the interstate commerce act is hereby amended by inserting '(1)' after the section number at the beginning of such paragraph.

"SEC. 424. The second paragraph of section 16 of the interstate commerce act is hereby amended by inserting '(2)' at the beginning of such paragraph, and by striking out the last sentence thereof and inserting in lieu thereof the following as a new paragraph:

"'(3) All actions at law by carriers subject to this act for recovery of their charges, or any part thereof, shall be begun within three years from the time the cause of action accrues, and not after. All complaints for the recovery of damages shall be filed with the commission within two years from the time the cause of action accrues, and not after, unless the carrier, after the expiration of such 2 years or within 90 days before such expiration, begins an action for recovery of charges in respect of the same service, in which case such period of 2 years shall be extended to and including 90 days from the time such action by the carrier is begun. In either case the cause of action in respect of a shipment of property shall, for the purposes of this section, be deemed to accrue upon delivery or tender of delivery thereof by the carrier, and not after. A petition for the enforcement of an order for the payment of money shall be filed in the district court or State court within one year from the date of the order, and not after.'

"SEC. 425. The third, fourth, fifth, and sixth paragraphs of section 16 of the interstate commerce act are hereby amended by inserting '(4)' at the beginning of the third paragraph, '(5)' at the beginning of the fourth paragraph, '(6)' at the beginning of the fifth paragraph, and '(7)' at the beginning of the sixth paragraph.

"SEC. 426. The seventh paragraph of section 16 of the interstate commerce act is hereby amended to read as follows:

"'(8) Any carrier, any officer, representative, or agent of a carrier, or any receiver, trustee, lessee, or agent of either of them, who knowingly fails or neglects to obey any order made under the provisions of sections 3, 13, or 15 of this act shall forfeit to the United States the sum of $5,000 for each offense. Every distinct violation shall be a separate offense, and in case of a continuing violation each day shall be deemed a separate offense.'

"SEC. 427. The eighth and ninth paragraphs of section 16 of the interstate commerce act are hereby amended by inserting '(9)' at the beginning of the eighth paragraph and '(10)' at the beginning of the ninth paragraph.

"SEC. 428. The tenth paragraph of section 16 of the interstate commerce act is hereby amended to read as follows:

"'(11) The commission may employ such attorneys as it finds necessary for proper legal aid and service of the commission or its members in the conduct of their work, or for proper representation of the public interests in investigations made by it or cases or proceedings pending before it, whether at the commission's own instance or upon complaint, or to appear for or represent the commission in any case in court; and the expenses of such employment shall be paid out of the appropriation for the commission.'

"SEC. 429. The eleventh and twelfth paragraphs of section 16 of the interstate commerce act are hereby amended by inserting '(12)' at the beginning of the eleventh paragraph and '(13)' at the beginning of the twelfth paragraph.

"SEC. 430. Section 17 of the interstate commerce act is hereby amended by inserting '(1)' after the section number at the beginning of the first paragraph.

"SEC. 431. The second paragraph of section 17 of the interstate commerce act is hereby amended to read as follows:

"'(2) The commission is hereby authorized by its order to divide the members thereof into as many divisions (each to consist of not less than three members) as it may deem necessary, which may be changed from time to time. Such divisions shall be denominated, respectively, division 1, division 2, etc. Any commissioner may be assigned to and may serve upon such division or divisions as the commission may direct, and the senior in service of the commissioners constituting any of said divisions shall act as chairman thereof. In case of vacancy in any division, or of absence or inability to serve thereon of any commissioner thereto assigned, the chairman of the commission or any commissioner designated by him for that purpose may temporarily serve on said division until the commission shall otherwise order.'

"SEC. 432. The third and fourth paragraphs of section 17 of the interstate commerce act are hereby amended by inserting '(3)' at the beginning of the third paragraph and '(4)' at the beginning of the fourth paragraph.

"The fifth and sixth paragraphs of such section are hereby repealed.

"The seventh paragraph of such section is hereby amended by inserting '(5)' at the beginning of such paragraph.

"SEC. 433. Section 18 of the interstate commerce act is hereby amended by inserting '(1)' after the section number at the beginning of the first paragraph and '(2)' at the beginning of the second paragraph.

"Section 19a of the interstate commerce act is hereby amended by inserting '(a)' after the section number at the beginning of the first paragraph, '(b)' at the beginning of the second paragraph, '(c)' at the beginning of the seventh paragraph, '(d)' at the beginning of the eighth paragraph, '(e)' at the beginning of the ninth paragraph, '(f)' at the beginning of the tenth paragraph, '(g)' at the beginning of the eleventh paragraph, '(h)' at the beginning of the twelfth paragraph, '(i)' at the beginning of the thirteenth paragraph, '(j)' at the beginning of the fourteenth paragraph, '(k)' at the beginning of the fifteenth paragraph, and '(l)' at the beginning of the sixteenth paragraph.

"SEC. 434. Section 20 of the interstate commerce act is hereby amended by inserting '(1)' after the section number at the beginning of the first paragraph, '(2)' at the beginning of the second paragraph, '(3)' at the beginning of the third paragraph, and '(4)' at the beginning of the fourth paragraph.

"SEC. 435. The fifth paragraph of section 20 of the interstate commerce act is hereby amended to read as follows:

"'(5) The commission may, in its discretion, prescribe the forms of any and all accounts, records, and memoranda to be kept by carriers subject to the provisions of this act, including the accounts, records, and memoranda of the movement of traffic, as well as of the receipts and expenditures of moneys. The commission shall, as soon as practicable, prescribe, for carriers subject to this act, the classes of property for which depreciation charges may properly be included under operating expenses, and the percentages of depreciation which shall be charged with respect to each of such classes of property, classifying the carriers as it may deem proper for this purpose. The commission may, when it deems necessary, modify the classes and percentages so prescribed. The carriers subject to this act shall not charge to operating expenses any depreciation charges on classes of property other than those prescribed by the commission, or charge with respect to any class of property a percentage of depreciation other than that prescribed therefor by the commission. No such carrier shall in any case include in any form under its operating or other expenses any depreciation or other charge or expenditure included elsewhere as a depreciation charge or otherwise under its operating or other expenses. The commission shall at all times have access to all accounts, records, and memoranda, including all documents, papers, and correspondence now or hereafter existing, and kept or required to be kept by carriers subject to this act, and the provisions of this section respecting the preservation and destruction of books, papers, and documents shall apply thereto, and it shall be unlawful for such carriers to keep any other accounts, records, or memoranda than those prescribed or approved by the commission, and it may employ special agents or examiners, who shall have authority under the order of the commission to inspect and examine any and all accounts, records, and memoranda, including all documents, papers, and correspondence now or hereafter existing, and kept or required to be kept by such carriers. This provision shall apply to receivers of carriers and operating trustees. The provisions of this section shall also apply to all accounts, records, and memoranda, including all documents, papers, and correspondence now or hereafter existing, kept during the period of Federal control, and placed by the President in the custody of carriers subject to this act.'

"SEC. 436. The sixth paragraph of section 20 of the interstate commerce act is hereby amended by inserting '(6)' at the beginning of such paragraph.

"The seventh paragraph of section 20 of the interstate commerce act is hereby amended by striking out 'Par. 7,' at the beginning of such paragraph and inserting '(7)' in lieu thereof.

"The eighth to twelfth paragraphs, inclusive, of section 20 of the interstate commerce act are hereby amended by inserting '(8)' at the beginning of the eighth paragraph, '(9)' at the beginning of the ninth paragraph, '(10)' at the beginning of the tenth paragraph, '(11)' at the beginning of the eleventh paragraph, and '(12)' at the beginning of the twelfth paragraph.

"SEC. 437. The eleventh paragraph of section 20 of the interstate commerce act is hereby amended by inserting immediately before the first proviso thereof the following:

"'*Provided*, That if the loss, damage, or injury occurs while the property is in the custody of a carrier by water the liability of such carrier shall be determined by and under the laws and regulations applicable to transportation by water, and the liability of the initial carrier shall be the same as that of such carrier by water.'

"SEC. 438. The third proviso of the eleventh paragraph of section 20 of the interstate commerce act (not counting the proviso added by section 437 of this act) is hereby amended to read as follows:

"'*Provided further*, That it shall be unlawful for any such common carrier to provide by rule, contract, regulation, or otherwise a shorter period for giving notice of claims than 90 days, for the filing of claims than four months, and for the institution of suits than two years, such period for institution of suits to be computed from the day when notice in writing is given by the carrier to the claimant that the carrier has disallowed the claim or any part or parts thereof specified in the notice.'

"SEC. 439. The interstate commerce act is further amended by inserting therein a new section between section 20 and section 21, to be designted section 20a, and to read as follows:

"'SEC. 20a. (1) That as used in this section the term "carrier" means a common carrier by railroad (except a street, suburban, or interurban electric railway which is not operated as a part of a general steam railroad system of transportation) which is subject to this act, or any corporation organized for the purpose of engaging in transportation by railroad subject to this act.

"'(2) From and after 120 days after this section takes effect it shall be unlaful for any carrier to issue any share of capital stock or any bond or other evidence of interest in or indebtedness of the carrier (hereinafter in this section collectively termed "securities") or to assume any obligation or liability as lessor, lessee, guarantor, indorser, surety, or otherwise, in respect of the securities of any other person, natural or artificial, even though permitted by the authority creating the carrier corporation, unless and until, and then only to the extent that, upon application by the carrier, and after investigation by the commission of the purposes and uses of the proposed issue and the proceeds thereof, or of the proposed assumption of obligation or liability in respect of the securities of any other person, natural or artificial, the commission by order authorizes such issue or assumption. The commission shall make such order only if it finds that such issue or assumption (a) is for some lawful object within its corporate purposes, and compatible with the public interest, which is necessary or appropriate for or consistent with the proper performance by the carrier of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purpose.

"'(3) The commission shall have power by its order to grant or deny the application as made, or to grant it in part and deny it in part, or to grant it with such modifications and upon such terms and conditions as the commission may deem necessary or appropriate in the premises, and may from time to time, for good cause shown, make such supplemental orders in the premises as it may deem necessary or appropriate, and may by any such supplemental order modify the provisions of any previous order as to the particular purposes, uses, and extent to which, or the conditions under which, any securities so theretofore authorized or the proceeds thereof may be applied, subject always to the requirements of the foregoing paragraph (2).

"'(4) Every application for authority shall be made in such form and contain such matters as the commission may prescribe. Every such application, as also every certificate of notification hereinafter provided for, shall be made under oath, signed and filed on behalf of the carrier by its president, a vice president, auditor, comptroller, or other executive officer having knowledge of the matters therein set forth and duly designated for that purpose by the carrier.

"'(5) Whenever any securities set forth and described in any application for authority or certificate of notification as pledged or held unencumbered in the treasury of the carrier shall, subsequent to the filing of such application or certificate, be sold, pledged, repledged, or otherwise disposed of by the carrier, such carrier shall, within 10 days after such sale, pledge, repledge, or other disposition, file with the commission a certificate of notification to that effect, setting forth therein all such facts as may be required by the commission.

"'(6) Upon receipt of any such application for authority the commission shall cause notice thereof to be given to and a copy filed with the governor of each State in which the applicant carrier operates. The railroad commissions, public service or utilities commissions, or other appropriate State authorities of the State shall have the right to make before the commission such representations as they may deem just and proper for preserving and conserving the rights and interests of their people and the States, respectively, involved in such proceeding. The commission may hold hearings, if it sees fit, to enable it to determine its decision upon the application for authority.

"'(7) The jurisdiction conferred upon the commission by this section shall be exclusive and plenary, and a carrier may issue securities and assume obligations or liabilities in accordance with the provisions of this section without securing approval other than as specfied herein.

"'(8) Nothing herein shall be construed to imply any guaranty or obligation as to such securities on the part of the United States.

"'(9) The foregoing provisions of this section shall not apply to notes to be issued by the carrier maturing not more than two years after the date thereof and aggregating (together with all other then outstanding notes of a maturity of two years or less) not more than 5 per cent of the par value of the securities of the carrier then outstanding. In the case of securities having no par value, the par value for the purposes of this paragraph shall be the fair market value as of the date of issue. Within 10 days after the making of such notes the carrier issuing the same shall file with the commission a certificate of notification, in such form as may from time to time be determined and prescribed by the commission, setting forth as nearly as may be the same matters as those required in respect of applications for authority to issue other securities: *Provided*, That in any subsequent funding of such notes the provisions of this section respecting other securities shall apply.

"'(10) The commission shall require periodical or special reports from each carrier hereafter issuing any securities, including such notes, which shall show, in such detail as the commission may require, the disposition made of such securities and the application of the proceeds thereof.

"'(11) Any security issued or any obligation or liability assumed by a carrier, for which under the provisions of this section the authorization of the commission is required, shall be void, if issued or assumed without such authorization therefor having first been obtained, or if issued or assumed contrary to any term or condition of such order of authorization as modified by any order supplemental thereto entered prior to such issuance or assumption; but no security issued or obligation or liability assumed in accordance with all the terms and conditions of such an order of authorization therefor as modified by any order supplemental thereto entered prior to such issuance or assumption shall be rendered void because of failure to comply with any provision of this section relating to procedure and other matters preceding the entry of such order of authorization. If any security so made void, or any security in respect to which the assumption of obligation or liability is so made void, is acquired by any person for value and in good faith and without notice that the issue or assumption is void, such person may in a suit or action in any court of competent jurisdiction hold jointly and severally liable for the full amount of the damage sustained by him in respect thereof, the carrier which issued the security so made void, or assumed the obligation or liability so made void, and its directors, officers, attorneys, and other agents, who participated in any way in the authorizing, issuing, hypothecating, or selling of the security so made void or in the authorizing of the assumption of the obligation or liability so made void. In case any security so made void was directly acquired from the carrier issuing it the holder may at his option rescind the transaction and upon the surrender of the security recover the consideration given therefor. Any director, officer, attorney, or agent of the carrier who knowingly assents to or concurs in any issue of securities or assumptions of obligation or liability forbidden by this section, or any sale or other disposition of securities contrary to the provisions of the commission's order or orders in the premises, or any application not authorized by the commission of the funds derived by the carrier through such sale or other disposition of such securities, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than $1,000 nor more than $10,000, or by imprison-

ment for not less than one year nor more than three years, or by both such fine and imprisonment, in the discretion of the court.

"'(12) After December 31, 1921, it shall be unlawful for any person to hold the position of officer or director of more than one carrier, unless such holding shall have been authorized by order of the commission, upon due showing, in form and manner prescribed by the commission, that neither public nor private interests will be adversely affected thereby. After this section takes effect it shall be unlawful for any officer or director of any carrier to receive for his own benefit, directly or indirectly, any money or thing of value in respect of the negotiation, hypothecation, or sale of any securities issued or to be issued by such carrier, or to share in any of the proceeds thereof, or to participate in the making or paying of any dividends of an operating carrier from any funds properly included in capital account. Any violation of these provisions shall be a misdemeanor, and on conviction in any United States court having jurisdiction shall be punished by a fine of not less than $1,000 nor more than $10,000, or by imprisonment for not less than one year nor more than three years, or by both such fine and imprisonment, in the discretion of the court.'

"SEC. 440. Section 24 of the interstate commerce act is hereby amended to read as follows:

"'SEC. 24. That the commission is hereby enlarged so as to consist of 11 members, with terms of seven years, and each shall receive $12,000 compensation annually. The qualifications of the members and the manner of payment of their salaries shall be as already provided by law. Such enlargement of the commission shall be accomplished through appointment by the President, by and with the advice and consent of the Senate, of two additional Interstate Commerce Commissioners, one for a term expiring December 31, 1923, and one for a term expiring December 31, 1924. The terms of the present commissioners, or of any successor appointed to fill a vacancy caused by the death or resignation of any of the present commissioners, shall expire as heretofore provided by law. Their successors and the successors of the additional commissioners herein provided for shall be appointed for the full term of seven years, except that any person appointed to fill a vacancy shall be appointed only for the unexpired term of the commissioner whom he shall succeed. Not more than six commissioners shall be appointed from the same political party. Hereafter the salary of the secretary of the commission shall be $7,500 a year.'

"SEC. 441. The Interstate commerce act is hereby further amended by adding at the end thereof three new sections, to read as follows:

"'SEC. 25 (1) That every common carrier by water in foreign commerce, whose vessels are registered under the laws of the United States, shall file with the commission, within 30 days after this section becomes effective and regularly thereafter as changes are made, a schedule or schedules showing for each of its steam vessels intended to load general cargo at ports in the United States for foreign destinations (a) the ports of loading, (b) the dates upon which such vessels will commence to receive freight and dates of sailing, (c) the route and itinerary such vessels will follow and the ports of call for which cargo will be carried.

"'(2) Upon application of any shipper a carrier by railroad shall make request for, and the carrier by water shall upon receipt of such request name, a specific rate applying for such sailing, and upon such commodity as shall be embraced in the inquiry, and shall name in connection with such rate, port charges, if any, which accrue in addition to the vessel's rates and are not otherwise published by the railway as in addition to or absorbed in the railway rate. Vessel rates, if conditioned upon quantity of shipment, must be so stated and separate rates may be provided for carload and less than carload shipments. The carrier by water, upon advices from a carrier by railroad, stating that the quoted rate is firmly accepted as applying upon a specifically named quantity of any commodity, shall, subject to such conditions as the commission by regulation may prescribe, make firm reservation from unsold space in such steam vessel as shall be required for its transportation and shall so advise the carrier by railroad, in which advices shall be included the latest available information as to prospective sailing date of such vessel.

"'(3) As the matters so required to be stated in such schedule or schedules are changed or modified from time to time, the carrier shall file with the commission such changes or modifications as early as practicable after such modification is ascertained. The commission is authorized to make and publish regulations not inconsistent herewith governing the manner and form in which such carriers are to comply with the foregoing provisions. The commission shall cause to be published in compact form, for the information of shippers of commodities throughout the country, the substance of such schedules, and furnish such publications to all railway carriers subject to this act, in such quantities that railway carriers may supply to each of their agents who receive commodities for shipment in such cities and towns as may be specified by the commission, a copy of said publication; the intent being that each shipping community sufficiently important, from the standpoint of the export trade, to be so specified by the commission shall have opportunity to know the sailings and routes, and to ascertain the transportation charges of such vessels engaged in foreign commerce. Each railway carrier to which such publication is furnished by the commission is hereby required to distribute the same as aforesaid and to maintain such publication as it is issued from time to time, in the hands of its agents. The commission is authorized to make such rules and regulations not inconsistent herewith respecting the distribution and maintenance of such publications in the several communities so specified as will further the intent of this section.

"'(4) When any consignor delivers a shipment of property to any of the places so specified by the commission, to be delivered by a railway carrier to one of the vessels upon which space has been reserved at a specified rate previously ascertained, as provided herein, for the transportation by water from and for a port named in the aforesaid schedule, the railway carrier shall issue a through bill of lading to the point of destination. Such bill of lading shall name separately the charge to be paid for the railway transportation, water transportation, and port charges, if any, not included in the rail or water transportation charge; but the carrier by railroad shall not be liable to the consignor, consignee, or other person interested in the shipment after its delivery to the vessel. The commission shall, in such manner as will preserve for the carrier by water the protection of limited liability provided by law, make such rules and regulations not inconsistent herewith as will prescribe the form of such through bill of lading. In all such cases it shall be the duty of the carrier by railroad to deliver such shipment to the vessel as a part of its undertaking as a common carrier.

"'(5) The issuance of a through bill of lading covering shipments provided for herein shall not be held to constitute "an arrangement for continuous carriage or shipment" within the meaning of this act.

"'SEC. 26. That the commission may, after investigation, order any carrier by railroad subject to this act, within a time specified in the order, to install automatic train-stop or train-control devices or other safety devices, which comply with specifications and requirements prescribed by the commission, upon the whole or any part of its railroad, such order to be issued and published at least two years before the date specified for its fulfillment: *Provided*, That a carrier shall not be held to be negligent because of its failure to install such devices upon a portion of its railroad not included in the order; and any action arising because of an accident happening upon such portion of its railroad shall be determined without consideration of the use of such devices upon another portion of its railroad. Any common carrier which refuses or neglects to comply with any order of the commission made under the authority conferred by this section shall be liable to a penalty of $100 for each day that such refusal or neglect continues, which shall accrue to the United States, and may be recovered in a civil action brought by the United States.

"'SEC. 27. That this act may be cited as the "interstate-commerce act."'

"TITLE V.—MISCELLANEOUS PROVISIONS.

"SEC. 500. It is hereby declared to be the policy of Congress to promote, encourage, and develop water transportation, service, and facilities in connection with the commerce of the United States, and to foster and preserve in full vigor both rail and water transportation.

"It shall be the duty of the Secretary of War, with the object of promoting, encouraging, and developing inland waterway transportation facilities in connection with the commerce of the United States, to investigate the appropriate types of boats suitable for different classes of such waterways; to investigate the subject of water terminals, both for inland waterway traffic and for through traffic by water and rail, including the necessary docks, warehouses, apparatus, equipment, and appliances in connection therewith, and also railroad spurs and switches connecting with such terminals, with a view to devising the types most appropriate for different locations, and for the more expeditious and economical transfer or interchange of passengers or property between carriers by water and carriers by rail; to advise with communities, cities, and towns regarding the appropriate location of such terminals, and to cooperate with them in the preparation of plans for suitable terminal facilities; to investigate the existing status of water transportation upon the different inland waterways

of the country, with a view to determining whether such waterways are being utilized to the extent of their capacity, and to what extent they are meeting the demands of traffic, and whether the water carriers utilizing such waterways are interchanging traffic with the railroads; and to investigate any other matter that may tend to promote and encourage inland water transportation. It shall also be the province and duty of the Secretary of War to compile, publish, and distribute, from time to time, such useful statistics, data, and information concerning transportation on inland waterways as he may deem to be of value to the commercial interests of the country.

"The words 'inland waterway' as used in this section shall be construed to include the Great Lakes.

"SEC. 501. The effective date on and after which the provisions of section 10 of the act entitled 'An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914, shall become and be effective is hereby deferred and extended to January 1, 1921: *Provided*, That such extension shall not apply in the case of any corporation organized after January 12, 1918.

"SEC. 502. That if any clause, sentence, paragraph, or part of this act shall for any reason be adjudged by any court of competent jurisdiction to be invalid such judgment shall not affect, impair, or invalidate the remainder of the act, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment has been rendered."

And the Senate agree to the same.

JOHN J. ESCH,
E. L. HAMILTON,
SAMUEL E. WINSLOW,
Managers on the part of the House.

ALBERT B. CUMMINS,
MILES POINDEXTER,
FRANK B. KELLOGG,
ATLEE POMERENE,
JOS. T. ROBINSON,
Managers on the part of the Senate.

STATEMENT.

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 10453) to provide for the termination of Federal control of railroads and systems of transportation; to provide for the settlement of disputes between carriers and their employees; to further amend an act entitled "An act to regulate commerce," approved February 4, 1887, as amended, and for other purposes, submit the following written statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

TERMINATION OF FEDERAL CONTROL.
(Section 200 of the conference bill.)

The House bill in section 200, in connection with the termination of Federal control, did not repeal the Federal-control act, but specified the powers conferred upon the President by such act, which he should no longer exercise after the termination of Federal control. The Senate bill repealed the Federal-control act and sought by general language to "continue and extend" the powers granted by that act, in so far as necessary for the settlement of matters arising out of Federal control. The conferees, in section 200 of the conference bill, adopted the House method of dealing with this question.

GOVERNMENT-OWNED BOATS AND INLAND WATERWAYS.
(Section 201 of the conference bill.)

Section 201 of the House bill transferred to the Secretary of War on the termination of Federal control the transportation facilities acquired by the United States in pursuance of the Federal control act, which are now being operated on the Mississippi and Warrior Rivers and the Erie Canal. The Senate amendment transferred these transportation facilities to the Shipping Board. The conferees in section 201 of the conference bill recommend the procedure contained in the House bill with the insertion of language making it clear that the Secretary of War is to operate such transportation facilities, so that the lines of inland water transportation established by the President during Federal control shall be continued, and authorizing the Secretary of War to construct or contract for the construction of terminal facilities for the interchange of traffic between the lines so operated by him and other rail or water carriers. The Senate amendment also contained provisions transferring to the Shipping Board boats constructed by or authorized to be constructed for the United States for the navigation of the upper Mississippi. The House bill made no provision for these transportation facilities, inasmuch as they are already under the control of the Secretary of War, but the conferees recommend the insertion of a provision that when the possession of these transportation facilities reverts to the United States, at or before the expiration of the contract under which they are now being operated, they shall continue to be operated by the Secretary of War, so as to provide facilities for water carriage on the upper Mississippi.

SETTLEMENT OF MATTERS ARISING OUT OF FEDERAL CONTROL.
(Section 202 of the conference bill.)

Section 202 of the House bill directed the President to settle and wind up all matters, including compensation, arising out of and incident to Federal control, and for these purposes made available all unexpended balances of the revolving fund created by the Federal control act and of the $750,000,000 deficiency appropriation of June 30, 1919, and also all moneys derived from the operation of carriers or otherwise arising out of Federal control. The Senate amendment contained no such reference to appropriations and contained no explicit direction to the President to settle Federal control matters. The conferees recommend in section 202 of the conference bill the retention of the House provisions, adding an appropriation of $200,000,000 in order to enable the President to comply with the provision in section 207 of the conference bill that the carriers, when restored to their own operation, shall have on hand at least one-half a month's working capital, which provision was contained in section 2 of the Senate amendment.

COMPENSATION OF CARRIERS WITH WHICH NO CONTRACT WAS MADE.
(Section 203 of conference bill.)

Section 2 of the Federal control act authorizes the President, in the case of any carrier with which no contract for compensation had been made, to pay to such carrier not exceeding 90 per cent of the estimated amount of compensation. The Senate amendment in section 2 required the President to pay to the carrier in such cases the total amount of just compensation or standard return provided for under the Federal control act, in all cases where necessary to pay interest upon indebtedness. The House bill contained no such provision. The conference bill recommends the insertion of section 203 of the conference bill, which requires the President, where no contract for compensation has been made, to pay to the carrier so much of the amount he estimates as just compensation as may be necessary to enable the carrier to pay interest, taxes, and other corporate expenses accruing during the period for which compensation is reckoned and dividends for the same period. The section also authorizes the President to pay to such carrier up to 100 per cent of the estimated amount of such compensation in order to permit of prompt settlement of matters arising out of Federal control. The section also contains provisions that the acceptance of any payments thereunder shall obligate the carrier to repay to the United States with 6 per cent interest the amount by which the sums advanced exceed the sum found due when compensation is finally determined.

REIMBURSEMENT OF DEFICITS DURING FEDERAL CONTROL.
(Section 204 of conference bill.)

The Senate amendment in section 5 contained a provision that railroads not operated by the Government during the period of Federal control should be paid the entire amount of their deficit during the Federal control period. No such provision was contained in the House bill. The conferees recommend, in section 204 of the conference bill, that carriers which sustained a deficit in railway operating income under their own operation during the period of Federal control shall be paid the amount by which such deficit exceeds the corresponding deficit during the test period. The computation of the amount payable is made by determining the deficit on income for each month of the Federal control period, during which the carrier operated its own line, and for the three corresponding months of the test period averaged together. In the case of a carrier which was in operation for less than a year during the test period, the amount payable is the entire amount of the deficit during the period of Federal control.

CAUSES OF ACTION ARISING OUT OF FEDERAL CONTROL.
(Section 206 of conference bill.)

The House bill in section 204 provided for the bringing of suits against the United States based on causes of action arising out of the possession, use, or operation by the President of railroads during Federal control. Such actions were to be brought against an agent designated by the President and process was to be served upon the local agents of the railroad in respect to whose operation the cause of action arose, if a contract was made with the carrier for the conduct of litigation arising out of operation during Federal control. Provision was also made, where no such contract has been made, for service of process upon agents or officers designated by the President. The House

bill also provided that suits of the character above described pending at the termination of Federal control should not abate but might be prosecuted to final judgment, substituting the agent designated by the President as defendant. The Senate amendment in section 1 provided that all actions based on causes of action growing out of the possession, use, control, or operation by the President might be brought against the United States and process served upon the United States District Attorney. The Senate amendment also provided for filing with the Interstate Commerce Commission reparation claims based on the unlawful collection of rates during Federal control. The conferees recommend in section 206 of the conference bill substantially the method of the House bill, adding a paragraph covering reparation claims and providing for the payment of final judgments out of the revolving fund, created by section 210 for the purpose of making loans during the transition period.

REFUNDING OF CARRIERS' INDEBTEDNESS TO THE UNITED STATES.
(Section 207 of the conference bill.)

Section 205 of the House bill provided that the President should ascertain the amount of indebtedness of each carrier to the United States, incurred for additions and betterments made during Federal control and properly chargeable to capital account, and also the amount of the indebtedness of the United States to each carrier arising out of Federal control. These amounts were required to be set off against each other to the extent permitted under the terms of the "standard contract" with the carriers relative to deductions and compensation. Such "standard contract" provides that the set off shall not be made in such manner as to deprive the carrier of sums necessary to pay fixed charges, taxes, and other corporate charges and expenses, but gives the President power, if he chooses, to make a set off, even though this might leave the carrier with no funds with which to pay dividends. The remaining amount of the indebtedness of the carrier on account of such additions and betterments was to be payable in 10 equal parts, one of such parts to be payable annually, beginning at the expiration of five years after the termination of Federal control. Any other indebtedness of the carrier was to be evidenced by notes payable on demand.

The Senate amendment provided for funding, without any right of set off, for a period of 10 years, or a shorter period, at the option of the carrier, of all the indebtedness to the United States incurred for additions and betterments, or for advances made by the United States, or incurred to pay off any carriers' indebtedness properly chargeable to capital account. Any remaining indebtedness of the carrier to the United States was to be evidenced by notes payable on demand, with the right in the President to set off against such amount any indebtedness of the United States to the carrier, to the extent permitted by the terms of the "standard contract," but no such set off was to be made unless the carrier had received such sums as were necessary to enable it to pay dividends at the regular rate of dividends paid during Federal control, and, in addition, sums necessary to provide the carrier with working capital in amount not less than one month's operating expenses, or due on account of materials and supplies not retained in kind.

The conference bill in section 207 provides that the right of set-off, instead of being first made against the indebtedness on open account, as provided in the Senate amendment, or against the indebtedness for additions and betterments, as provided in the House bill, may be made against either or both of these classes of indebtedness as the President may determine, and to the extent determined by him, subject to the limitation that such right of set-off can not be exercised beyond the extent permitted under the terms of the "standard contract," nor so as to prevent the carrier from having sums required for dividends declared and paid during Federal control, and working capital of not less than one-half a month's operating expenses. The conference bill also provides that the funding of the remaining indebtedness for additions and betterments shall be for a period of 10 years from the termination of Federal control, or a shorter period, at the option of the carrier, with interest at 6 per cent per annum, subject to the right of the carrier to pay before it is due the whole or any part of such indebtedness. Under the conference bill any other indebtedness is to be evidenced by notes payable in one year or a shorter period, at the option of the carrier.

EXISTING RATES TO CONTINUE IN EFFECT.
(Section 208 of conference bill.)

Section 206 of the House bill provided that all rates and divisions of joint rates in effect on the termination of Federal control should continue in force and effect until changed by State or Federal authority, respectively, or pursuant to authority of law. The Senate amendment provided that such rates and divisions of rates should remain in force until changed by competent authority. The conference bill, in section 208, adopts the House method of statement and provides that prior to the expiration of the guaranty period no rate shall be reduced without the approval of the commission.

GUARANTY TO CARRIERS AFTER TERMINATION OF FEDERAL CONTROL.
(Section 209 of the conference bill.)

(1) Carriers included. The guaranty provided by section 207 of the House bill applied only to a carrier by railroad under Federal control at the time Federal control terminates, or which engaged as a common carrier in general transportation and competed for traffic with a railroad under Federal control. It also excluded from the guaranty a carrier which within 60 days after Federal control terminated did not file with the commission schedules embodying general increases in its rates. The Senate amendment in section 5 did not contain this latter requirement, but included within the guaranty the roads which had competed for traffic, or connected, with a railroad under Federal control. The conference bill in section 209 in substance adopts the Senate definition of carriers to whom the guaranty is to apply.

(2) Period of guaranty. The Senate amendment provided that schedules of rates filed with the commission within 60 days after Federal control terminated should become effective four months after being filed with such changes as might be ordered by the commission, provided that until the commission rendered its decision, or until the expiration of the four months' period the guaranty should be applicable, thus making it possible for the guaranty to expire before the new rates became effective. The House bill, in section 207, fixed as a definite guaranty period the first six months after the termination of Federal control. The conference bill in section 209 adopts the House period of guaranty.

(3) Amount of guaranty. The House bill, in section 207, guaranteed to each carrier entitled to a guaranty that its railway operating income for the guaranty period as a whole should not be less than the average of such income for the three corresponding periods of six months during the test period, and in case during the test period the carrier had a deficit in railway operating income, the guaranty should be the amount by which any deficit in railway operating income for the guaranty period as a whole exceeds the deficit for the three corresponding periods during the test period, averaged together. The Senate amendment provided that in case of a carrier which had made with the President a contract for compensation under the Federal control act, the guaranty should be of an operating income for the guaranty period proportionate to the compensation so agreed upon, but that in respect to those carriers with which no contract had been made, and with respect to carriers not under Federal control, the guaranty should be based upon the railway operating income during the test period, and if the carrier had a deficit in the test period the guaranty should be against the entire deficit in operating expenses and taxes during the guaranty period.

The conference bill, in section 209, provides with respect to carriers with which a contract-fixing compensation has been made, that the railway operating income for the guaranty period as a whole shall not be less than one-half the amount named in such contract as annual compensation, including increases in such compensation provided for in section 4 of the Federal control act, relating to additions and betterments made by order of, or with the approval of, the President during the period of Federal control.

The conference bill provides with respect to carriers entitled to compensation under the Federal control act, with which such contract has not been made, that the railway operating income for the guaranty period as a whole shall not be less than one-half of the annual amount estimated by the President under the Federal control act, including the increases in such compensation provided in section 4 of the Federal control act. Provision is made that if the carrier does not accept the President's estimate and tries its remedy in the Court of Claims and it is there determined that a larger or smaller amount is due as compensation, the guaranty shall be increased or decreased accordingly.

With respect to any carrier, whether or not entitled to just compensation under the Federal control act, with which such a contract has not been made and as to which the President has not made any estimate of compensation and which in the test period sustained a deficit in railway operating income, the conference bill provides that the guaranty shall be the amount by which the deficit for the guaranty period as a whole exceeds one-half its average annual deficit for the test period plus an amount equal to one-half the annual sum fixed by the President

under section 4 of the Federal control act as interest on additions and betterments made by his order or with his approval during the period of Federal control.

With respect to a carrier not entitled to just compensation under the Federal control act, which for the test period as a whole had an average annual railway operating income, the conference bill provides that the guaranty shall be not less than one-half of the average annual railway operating income of such carrier during the test period.

(4) Return of excess over guaranty: The Senate amendment, in section 5, provided that the guaranty should not be payable unless the carrier accepts in writing the provisions of the guaranty section. It further provided that if any carrier during the guaranty period received an income in excess of the guaranty it should pay such excess into the Treasury. The House bill contained no such provision. The conference bill, in section 209, adopts the Senate provision with the limitation that the carrier may retain out of the amount of any such excess such amounts as are necessary to enable it to pay its fixed charges accruing during the guaranty period.

(5) Computation of railway operating income: The House bill contained detailed provisions as to the computation of railway operating income and provided for necessary adjustments made necessary to make the income for the guaranty period properly comparable with the test period income as defined in the Federal control act. The Senate amendment contained no such provision. The conference bill, in section 209, accepts the House provisions.

(6) Advances: The House bill made provision for advances to the carrier during the guaranty period not in excess of the estimated amount of guaranty, to enable it to meet its fixed charges and operating expenses upon execution of properly secured contracts for repayment of any overpayments. The Senate bill contained no such provision which the conference bill retains.

(7) American Railway Express guaranty: The House bill also contained a provision guaranteeing the American Railway Express Co. against a deficit during the guaranty period. The Senate bill contained no such provision. The conference bill, in section 209, retains the House provision, with the limitation that there shall not be included in operating expenses so much of the charge for payment for express privileges to carriers on whose lines the express traffic is carried as is in excess of 50.25 per cent of gross express revenue. The conference bill also inserts a provision that any operating income earned by the American Railway Express Co. in excess of the guaranty shall be paid into the Treasury, the acceptance of this provision, in writing, being a condition of obtaining the guaranty.

NEW LOANS TO RAILROADS.

(Section 210 of the conference bill.)

The House bill in section 208 created a revolving fund of $250,000,000 for the purpose of making loans to carriers during the transition period following the termination of Federal control. Detailed provision was made for the recommendation of the loans by the Interstate Commerce Commission, and the making of such loans by the Secretary of the Treasury. The Senate amendment appropriated $500,000,000 for loans to railroads, without any provision as to how these loans should be made, or any limitation as to the time during which they might be made. The conference bill, in section 210, adopts the provisions of the House bill, but increases the amount of the revolving fund to $300,000,000.

DISPUTES BETWEEN CARRIERS AND THEIR EMPLOYEES AND SUBORDINATE OFFICIALS.

(Title III of conference bill.)

The House bill limited the disputes which were to be considered under its labor provisions to those involving employees who are members of certain specified railroad brotherhoods and shopmen's unions. The Senate amendment provided for the consideration of disputes of all employees and subordinate officials of carriers, organized or unorganized. The bill agreed to by the conferees provides for the adjustment of disputes of all railroad employees, not only members of the four brotherhoods or the shopmen's union, but also of other railroad labor organizations. Unorganized employees and employees of sleeping-car or express companies and subordinate officials are also included. The officials included within this last term are to be determined by the commission under the authorization of paragraph (5) of section 300.

The House bill established three adjustment boards, comprised of an equal number of the representatives of the specified railway brotherhoods and shopmen's unions and the railroads appointed directly by the employees and carriers. Such adjustment boards were authorized to receive disputes of any kind for consideration if both the railroad and the employees jointly agreed to submit the dispute to the consideration of the proper adjustment board. If the adjustment board failed or refused to decide the dispute, either half of the members of the board might refer it to a corresponding appeal commission, composed in the same manner as the adjustment board.

The Senate amendment placed disputes in two classes, those relating to wages and working conditions and those relating to grievances and matters of discipline. The latter class of disputes were to be considered by local regional boards of adjustment comprised of an equal number of representatives of labor and the carriers, appointed by the transportation board from nominees presented by the carriers and their employees. There was further created and established a committee of wages and working conditions, formed in the same manner. This committee had original jurisdiction over all disputes involving wages and working conditions and the power to amend or disapprove the decisions of the regional boards for the purpose of securing uniformity of practice. The Senate amendment provided special temporary tribunals for the consideration of disputes of subordinate officials. Finally, disputes as to grievances and matters of discipline which the regional boards failed to decide might be referred to the committee on wages and working conditions, and all decisions of the committee on wages and working conditions were denied effect until approved by the transportation board.

The conference bill (see section 302) permits the formation by agreement between the carriers and their employees of voluntary adjustment boards with jurisdiction over disputes involving grievances, rules, or working conditions. There is further established a railroad labor board composed of nine members appointed by the President, by and with the advice and consent of the Senate, three from nominees offered by the carriers, three from nominees offered by the employees of the carriers, and three to be directly appointed and to be representatives of the public (see section 304). The railroad labor board has exclusive jurisdiction over disputes involving wages, and also of disputes involving grievances, disputes, and working conditions in case no adjustment board has been formed by the carriers and employees who are parties to such dispute. The railroad labor board has appellate jurisdiction upon its own motion or upon the request of an adjustment board, in case such adjustment board is formed but fails to decide such disputes.

The House bill provided for no representation of the public upon any of its boards or commissions. The Senate amendment subjected all decisions of its tribunals to review by a public board, the transportation board. The conference bill (see section 307 (c)) provided for appointment of members to represent the public along with those representing the carriers and employees upon its supreme tribunal, and, moreover, requires that though a decision may be reached by a majority vote, nevertheless a decision in respect to wages is not effective unless at least one of the public representatives concurs therein.

The House bill made it the duty of carriers and their employees to take all possible means to adjust their differences in the first instance before referring the dispute to any adjustment board. The Senate amendment had no provision upon this subject. The conference bill contains a declaration, similar to that in the House bill, directing the officials of a carrier and their employees to appoint representatives to confer over all matters of dispute. In case of the failure of such conference, the House bill provided that no dispute should come within the jurisdiction of an adjustment board unless both the carriers and the employees jointly agreed to submit it to the adjustment board. The Senate amendment permitted disputes to reach a regional board or the committee on wages and working conditions upon the application of either party to the dispute, but made no provision for any action by any tribunal upon its own initiative. The provisions of the conference bill (see section 307 (a) and (b)) permits action by the railroad labor board not only upon application of either party or by petition of unorganized employees but also upon the adjustment board's or the railroad labor board's own motion.

The House bill made permanent all decisions issued by the Railroad Administration or the adjustment boards in connection therewith in respect to wages and working conditions. The Senate amendment had no provision upon this subject. The bill of the conferees, however (see section 312), forbids the carrier to reduce wages agreed to under such decisions during the guaranty period only.

The House bill contained no enforcement provisions, but relied on the voluntary observance by the parties of all decisions made by them. A blanket penalty was contained in the House bill, but there were no corresponding duties save that representatives upon the boards and commissions "shall" reach a decision, to which the penalty applies. The Senate amendment

made extensive use of criminal penalties to enforce all decisions of its tribunals and provided for a fine of $500 or imprisonment not exceeding six months for any carrier or official thereof who fails to obey any decision of its tribunals and for any person who enters into a conspiracy to restrain the operation of trains in interstate commerce. The conference bill contains no penalty provisions for a violation of a decision of the railroad labor board, but provides that all decisions shall be given extensive publicity. There is a further provision—see section 313—that the railroad labor board may, after notice and hearing, determine whether any decision by an adjustment board has been violated by either party to which the decision applies. In case the railroad labor board determines that such violation occurs, it may make public such findings in such manner as it may determine.

The House bill provided for the transfer to the adjustment boards and appeal commissions of certain records of the Board of Mediation and Conciliation, established under the Newlands Act, but both the House bill and Senate amendment permit the general jurisdiction of that board over all railroad labor disputes to remain. The conference bill, however, denies jurisdiction of the Board of Mediation and Conciliation over any dispute which may be adjusted by the adjustment boards or the Railroad Labor Board.

NATURAL GAS.

(Section 400 of conference bill.)

The House bill, in section 400, amended section 1 of the interstate commerce act so that the transportation of natural gas by pipe line was included within the jurisdiction of the commission. The Senate amendment contained no such provision. The conference bill, in section 400, continues the provisions of existing law under which such transportation of natural gas is not subject to the jurisdiction of the commission.

FREE PASSES BY CARRIERS.

The House bill, in section 400, amended the existing provisions of the interstate commerce act so as to put further restrictions on the right of carriers to issue free passes. The Senate amendment contained no such amendment of existing law. The conference bill strikes out the amendment contained in the House bill.

CAR SERVICE—REFRIGERATOR CARS.

(Section 402 of conference bill.)

Section 34 of the Senate amendment empowered the transportation board to require carriers to furnish refrigerator cars for the transportation of perishable commodities. The House bill contained no specific provision respecting refrigerator cars. Section 402 of the conference bill defines "car service" so as to include "special types of equipment," which term will embrace refrigerator cars, and makes it the duty of every carrier by railroad to furnish adequate car service.

CAR SERVICE—COAL CARS.

(Section 402 of conference bill.)

Section 402 of the House bill required carriers by rail to make just and reasonable distribution of cars for the transportation of coal among coal mines served by them, and, in time of car shortage, to maintain and apply just and reasonable ratings of such mines, and to count against each mine every car furnished to it. Section 34 of the Senate amendment required carriers by rail, during any period of car shortage, to make just, reasonable, and nondiscriminatory distribution of cars to coal mines, to establish regulations providing for rating such mines and the distribution of cars among them, to count against each mine every car furnished to it, and not to furnish cars in excess of such ratings, an exception being made in the case of cars used for coal necessary for the movement of trains. The provisions of the House bill were agreed to, and are contained in section 402 of the conference bill.

CAR SERVICE—POWER OF STATES.

(Section 402 of conference bill.)

Section 402 of the House bill provided "that nothing contained in this act shall impair the right of the State, in the exercise of its police power, to require just and reasonable freight and passenger service and the fair exchange and distribution of equipment for intrastate business." The Senate amendment contained no similar provision. The conference bill provides in section 402, "That nothing in this act shall impair or affect the right of a State, in the exercise of its police power, to require just and reasonable freight and passenger service for intrastate business, except in so far as such requirement is inconsistent with any lawful order of the commission made under the provisions of this act."

CONSTRUCTION AND ABANDONMENT OF LINES OF RAILROADS.

(Section 402 of the conference bill.)

The House bill in section 402 provided that the authority of the commission over the construction and abandonment of lines of railroads should not extend to any line located or to be located wholly within one State, or to any street car or electric interurban line. The Senate amendment specified that the authority of the transportation board in this connection "should not extend to the construction or abandonment of side tracks, spurs, industrial, team or switching tracks, located or to be located wholly within one State, or street, suburban, and interurban electric railways which are not operated as a part or parts of a general steam railroad system of transportation." Section 402 of the conference bill adopts the Senate provision, substituting the commission for the transportation board, however.

JOINT USE OF TERMINALS.

(Section 405 of the conference bill.)

Section 405 of the House bill provided that the commission might require the terminal of any carrier to be open to the traffic of other carriers upon such terms and for such compensation as the commission might prescribe. The Senate amendment, in section 11, provided that the transportation board might require one carrier to permit another carrier to use its "terminal, or other facilities including main-line track or tracks for a reasonable distance outside of such terminals," on such terms as the carriers might agree on or as the board might fix. Section 405 of the conference bill contains provisions on this subject similar to those in the Senate amendment. It is provided that the commission, if it is found to be in the public interest and practicable, may require one carrier to allow another to use its terminal facilities "including main-line track or tracks for a reasonable distance outside of such terminal," on such terms as the carriers may agree upon, or as the commission may fix, subject to the right, however, of the carrier whose terminal facilities are thus thrown open to sue for any damages sustained, or any compensation owed.

NON-DISCRIMINATION—EXTENSION OF CREDIT.

(Section 405 of the conference bill.)

Section 404 of the House bill and section 35 of the Senate amendment both amended section 2 of the interstate commerce act, extending the provisions of such section prohibiting discriminations by carriers. Section 404 of the conference bill adopts the extension of the prohibition of discrimination to the transmission of intelligence, while section 405 provides that, after July 1, 1920, no railroad shall relinquish possession of freight at destination until all rates and charges thereon have been paid, except under such rules as the commission may prescribe to assure prompt payment and prevent unjust discrimination. The latter provision virtually continues the operation of general order No. 25 of the Railroad Administration as supplemented, relating to the extension of credits by railroads.

LONG AND SHORT HAUL.

(Section 406 of the conference bill.)

The House bill contained no amendment to the so-called long-and-short-haul provisions of section 4 of the interstate commerce act. The Senate amendment in section 37 provided that, in exercising its authority to grant departures from the strict long-and-short-haul rule contained in section 4 of the interstate commerce act, the commission might not permit rates to the more distant point which were not "fairly compensatory," nor allow a circuitous route to maintain higher rates to intermediate points. The Senate amendment also stipulated that departures should not be permitted on account of merely potential water competition. The conference bill in section 406 adopts the provisions of the Senate bill on this subject, except that rates to the more distant point must be "reasonably compensatory," instead of "fairly compensatory," in order to be within the class of permitted departures, and an exception is made in favor of rates in conflict with the long-and-short-haul rule which have already been filed with the commission.

FEDERAL INCORPORATION.

The House bill contained no provision for Federal incorporation of railway carriers. The Senate amendment in sections 15 to 20, inclusive, provided for the conversion of State railroad corporations into Federal corporations, and in sections 21 to 23, inclusive, provided for the incorporation of new Federal railroad corporations, and in section 32 provided for the dissolution of such Federal corporations. These provisions, in connection with the compulsory consolidation provisions in the Senate amendment, were intended to bring about eventual Federal incorporation of all railroad carriers. The conference bill strikes out all of these sections providing for incorporation, reincorporation, and dissolution of Federal railroad corporations.

CONSOLIDATIONS, MERGERS, AND POOLING.

(Section 407 of conference bill.)

The House bill permitted consolidations, mergers, and pooling of earnings or facilities, subject to the approval of the commission, and for the purpose of carrying out any order of the commission approving a consolidation, merger, or pooling declared that the carriers affected by such order should be relieved from the operation of the antitrust and other restrictive or prohibitory laws. The Senate amendment, in section 9, declared that it is the policy of the United States to require consolidation of all the railroads of the country into not less than 20 nor more than 35 separate systems and provided (section 10) that the transportation board should prepare a plan for such consolidation. Voluntary consolidations were provided for within the period of seven years after the passage of the act, but at the end of that period the transportation board was given power to compel such consolidations. The Senate receded from the provisions for compulsory consolidation and agreed to the House provisions with respect to pooling as revised by the conferees. The House agreed to the Senate provisions for voluntary consolidations as revised by the conferees in section 407 of the conference report. Under these provisions the commission is authorized to permit the acquisition by one carrier of the control of another by lease or purchase of stock. The commission is directed to prepare a plan of consolidation, preserving existing routes and competition so far as possible. Before adopting such plan the commission is required to give a hearing and notify the governor of each State affected. Consolidations or mergers in harmony with the commission's plan are permitted, subject to the approval of the commission and subject to the requirement that the capital of the consolidated corporation shall not exceed the value of the consolidated properties as determined by the commission. An order of the commission approving a specified consolidation may be carried out notwithstanding any State or Federal restraining or prohibitory law to the contrary.

RAILROAD-OWNED WATER LINES.

The House bill, in section 408, amended the provisions of the Panama Canal act, relating to the ownership of water lines by railroads, so as to allow the commission, when satisfied that the public interests would not be injured, to continue existing service of water lines owned by a railroad or to permit the establishment of a proposed new service, except on inland waters. The Senate amendment contained no such provision and the conference bill strikes out this provision in the House bill.

POWER OF COMMISSION OVER INTRASTATE RATES.

(Section 416 of conference bill.)

Section 415 of the House bill provided that the commission should have authority to make such findings and orders as might in its judgment tend to remove any undue advantage, preference, or prejudice as between persons or localities in interstate commerce, on the one hand, and intrastate or foreign commerce, on the other hand, or any undue burden on interstate or foreign commerce; and that such findings or orders should be observed by the carriers, the law of any State or the decision or order of any State authority to the contrary notwithstanding. The Senate amendment provided that the commission shall make such findings and orders as will in its judgment remove any undue or unreasonable advantage, preference, or prejudice as between persons or localities in interstate or intrastate and foreign commerce, or any undue, unreasonable, or unjust discrimination against interstate or foreign commerce, and shall make the rates which in its judgment will remove such advantage, preference, or prejudice. The Senate amendment further declared that nothing in this act shall be construed to amend, repeal, impair, or affect the existing laws or powers of the States or other local authorities in relation to taxation or the lawful police powers of the several States, including the power to make intrastate rates, except as provided otherwise in the interstate commerce act.

The conference bill in section 416 provides that whenever the commission finds that any rate, fare, charge, classification, regulation, or practice causes any undue or unreasonable advantage, preference, or prejudice as between persons or localities in intrastate commerce on the one hand and interstate and foreign commerce on the other hand, or any undue, unreasonable, or unjust discrimination against interstate or foreign commerce, it shall prescribe the rate, fare, or charge or the classification, regulation, or practice in such manner as in its judgment will remove such advantage, preference, prejudice, or discrimination. The carriers are compelled to observe the orders of the commission, the law of any State, or the decision or order of any State authority to the contrary notwithstanding.

JOINT RAIL AND WATER RATES.

(Section 418 of conference bill.)

Section 15 of the interstate commerce act, as amended by section 417 of the House bill and section 44 of the Senate amendment, authorized the commission to prescribe joint rates, fares and charges and the maximum or minimum or maximum and minimum to be charged in connection with through routes. Section 44 of the Senate bill, however, provided that the commission should not prescribe the minimum rate to be charged by a water carrier. The conference bill in section 418 limits the commission to prescribing maximum rates for through routes in any case where one of the carriers is a water line.

DIVISIONS OF RATES.

(Section 418 of the conference bill.)

Section 417 of the House bill and section 44 of the Senate amendment provided that the commission might, in case it found the division of any joint rate among carriers to be "unjust, unreasonable, or unduly preferential or prejudicial," establish a just and reasonable division of such rate, and require adjustments to be made accordingly. The Senate bill also mentioned certain factors to be taken into consideration by the commission in determining proper divisions of rates. Section 418 of the conference bill authorizes the commission to establish "just, reasonable, and equitable" divisions of rates where it finds such divisions to be "unjust, unreasonable, inequitable, or unduly preferential or prejudicial," and adopts substantially the language of the Senate bill with respect to the elements to be considered by the commission in reaching its decision.

SUSPENSION OF RATES.

(Section 418 of the conference bill.)

The House bill in section 417 authorized the commission to suspend rates for 120 days after their filing, at the end of which time they were to go into effect whether or not the commission had concluded its hearing, but that as to freight rates the carrier should keep a record in all cases where the commission had not concluded such hearing, and, if the commission finally found the rates too high the carrier was required to make refunds to the shippers affected. The Senate amendment provided for a suspension for 120 days, and, if the hearing was not then concluded, for a 30 days' further extension, after which time the rates were to go into effect whether or not the hearing was concluded, and without any duty on the carrier to make refunds if the rate was later found to be excessive. The conference bill retains the House provision but inserts the 30 days' further suspension provided for in the Senate amendment.

WATER CARRIERS—EMBRACING ENTIRE LENGTH OF LINE IN THROUGH ROUTE.

(Section 418 of the conference bill.)

The House bill and the Senate amendment both continued the provisions in section 15 of the interstate commerce act, forbidding the commission to require any railroad to embrace in a through route "substantially less than the entire length of its railroad," but the Senate amendment contained the provision that this restriction should not hinder the establishment of a through route where one of the carriers is a water line. The conference bill practically adopts the Senate provision on this subject, specifically relieving the commission from this restriction where one of the carriers is a water line.

TRANSPORTATION OF LIVE STOCK.

(Section 418 of the conference bill.)

Section 44 of the Senate amendment provided that through rates on live stock should include unloading and other incidental charges in the case of shipments consigned to public stockyards. The House bill contained no reference to this matter. The conference bill amplifies the provision of the Senate amendment and provides that "transportation wholly by railroad of ordinary live stock in carload lots destined to or received at public stockyards shall include all necessary service of unloading and reloading en route, delivery at public stockyards of inbound shipments into suitable pens, and receipt and loading at such yards of outbound shipments, without extra charge to the shipper," with certain exceptions concerning which the commission may prescribe rules.

DIVERSION OF TRAFFIC.

(Section 420 of the conference bill.)

Section 419 of the House bill added to the interstate commerce act a provision that whenever property is diverted or delivered by one carrier to another carrier contrary to routing instructions in the bill of lading, the carrier thus deprived of its right to participate in the haul of the property should have a right of action against the carrier by which or to which such traffic was unlawfully diverted for the total amount of the rate or charge it

would have received had it participated in the haul. It was provided that this provision should not apply where the diversion or delivery was in compliance with a lawful order of the commission, and that the carrier to which the property was diverted should not be liable if it could show that, when it carried the property, it had no notice of the routing instructions. The Senate amendment contained a similar provision, but afforded no relief if the diversion or delivery was in compliance with an order of the commission, and did not clearly give a right of action against the initial carrier guilty of the diversion. It also based the amount of damages upon the revenues accruing from the diverted traffic. The conference bill in section 420 accepts the House provision as appearing in the House bill.

TRAFFIC NOT ROUTED BY SHIPPER.

(Section 420 of the conference bill.)

The Senate amendment contained a provision not contained in the House bill that with respect to traffic not routed by the shipper the transportation board might direct the route which such traffic should take after it arrives at the terminus of one carrier and is to be delivered to another carrier. The conference bill in section 420 contains this provision of the Senate amendment, giving the power to the commission, whenever the public interest and fair distribution of the traffic require, to direct the route which such traffic shall take after it arrives at the terminus of one carrier or at a junction point with another carrier and is to be there delivered to another carrier.

RULE OF RATE MAKING.

(Section 422 of conference bill.)

The House bill continued the existing law authorizing the Interstate Commerce Commission to prescribe just and reasonable rates. Section 6 of the Senate amendment added to the just and reasonable rule a requirement that the rates must be adequate to enable the carriers as a whole to earn a fair return on the aggregate value of their property, and provided that if from such rates any carrier's railway operating income exceeded 6 per cent of the value of its railway property a portion of the excess should be turned over to the Government and placed in a railroad contingent fund, to be used for the purpose of making loans to or providing equipment for railroad carriers generally. The House receded from its disagreement to these provisions of section 6 and agreed to them as revised by the conferees in section 422 of the conference report. This section directs the commission to make rates adequate to provide the carriers as a whole—either in the entire country or in rate groups or territories to be established by the commission—with an aggregate annual net railway operating income equal as nearly as may be to a fair return on the aggregate value of the railway property held for and used in the service of transportation. The Senate bill required the establishment of rate districts, but the conference bill leaves their establishment to the discretion of the commission. The commission is authorized to determine the value of railway property, and is specifically directed in this connection not to give undue consideration to the property investment accounts. The commission is also authorized from time to time to determine and publish what percentage constitutes a fair return on railway property, except that for the two years beginning March 1, 1920, it is declared in this section that 5½ per cent of the aggregate value of the railway property shall constitute a fair return, unless the commission in its discretion adds thereto, in whole or in part, one-half of 1 per cent of such value to make provision for improvements and betterments chargeable to capital account. The result of these provisions is that 5½ per cent is fixed as a minimum and 6 per cent as a maximum during the next two years, and thereafter the matter is left to the discretion of the commission.

Section 6 of the Senate bill provided that one-half of any excess income between 6 and 7 per cent should be paid into the carrier's reserve fund and the other one-half into the contingent fund, and that the excess of such income above 7 per cent should be payable one-fourth to the carrier's reserve fund and three-fourths to the contingent fund. The conference bill provides that if any carrier earns in any year a net railway operating income in excess of 6 per cent of the value of its railway property, one-half of such excess must be placed in a reserve fund until such fund equals 5 per cent of the value of the carrier's property, and thereafter may be used for any lawful purpose by the carrier. The other one-half of such excess income must be paid into a general railroad contingent fund to be administered by the commission. The conference bill adds a provision that the value and the income of a group of carriers which are under common control and management and are operated as a single system shall be computed for the system as a whole.

The general railroad contingent fund is to be used to make loans to carriers to meet expenditures for capital account or to purchase equipment to be leased to the carriers. The making of such loans and the obtaining and leasing of such equipment is left to the commission.

LIMITATION OF ACTIONS.

(Section 424 of the conference bill.)

Section 424 of the House bill provided that all actions at law by carriers for recovery of charges shall be brought within two years from the time the cause of action accrues; and that all complaints for the recovery of damages shall be filed with the commission within two years after the cause of action accrues, unless the carrier after the expiration of such two years, or within 90 days before such expiration, begins an action for recovery of charges in regard to the same service, in which case such period of two years shall be extended to 90 days from the time the carrier's action is begun. In either case the cause of action shall be deemed to accrue upon delivery, or tender of delivery, of the shipment by the carrier. This provision was not contained in the Senate amendment. The conference bill retains the House provision as it appeared in the House bill.

DIVISIONS OF INTERSTATE COMMERCE COMMISSION.

(Section 431 of conference bill.)

The interstate commerce act now provides that in proceedings before the commission involving valuation of railroad property, under section 19a of the interstate commerce act, not less than five members of the commission shall participate. The House bill in section 429 amended this so as to require the participation of not less than three members. The Senate amendment contained no such provision. The conference bill in section 431 amends the provision of the interstate commerce act authorizing divisions of the commission, so as to provide that each division shall consist of not less than three members.

DEPRECIATION ACCOUNTING.

(Section 435 of the conference bill.)

Section 433 of the House bill required the commission to establish, and the carriers to comply with, schedules of depreciation for all classes of equipment and fixed improvements. The Senate amendment contained no such provision. Section 435 of the conference bill requires the commission to prescribe the classes of property for which depreciation charges may be included under operating expenses, and the percentage of depreciation which shall be charged with respect to each class of property. The commission may modify these classes and percentages when it deems necessary. Carriers are forbidden to charge to operating expenses depreciation charges on other classes of property, or to employ a percentage of depreciation other than that prescribed by the commission. Provision is also made for avoiding duplication of depreciation charges.

SECURITIES ISSUES.

(Section 439 of the conference bill.)

Both the House bill and the Senate amendment contained substantially similar provisions giving the commission power to regulate issues of securities by railroad carriers. The House bill provided in section 437 that the provisions of the section should not apply to notes maturing in not more than two years after the date thereof and aggregating (together with all other then outstanding notes of a maturity of two years or less) not more than 10 per cent per annum of the par value of the securities of the carrier then outstanding. The Senate amendment had a similar provision, but specified 5 per cent per annum in place of the 10 per cent per annum fixed in the House bill, and did not contain the provision of the House bill that, in considering the aggregate amount of the notes, there should be added the amount of similar notes then outstanding. The conference bill, section 439, retains this latter provision, but adopts the 5 per cent of the Senate amendment.

INCREASE OF INTERSTATE COMMERCE COMMISSION.

(Section 440 of the conference bill.)

The House bill in section 438 increased the membership of the Interstate Commerce Commission from 9 to 11 members, increased their compensation from $10,000 to $12,000 annually, and increased the salary of the secretary of the commission from $5,000 to $7,500 per annum. The Senate amendment did not increase the membership of the commission or the salary of the secretary, but did increase the salary of the commissioners as in the House bill. The Senate amendment further created a transportation board to be composed of five members appointed by the President with the advice and consent of the Senate, to which board was transferred practically all the powers of the Interstate Commerce Commission except the power with re-

spect to rates. The conference bill in section 440 adopts the House section exactly as appearing in the House bill, and contains no provision for a transportation board.

THROUGH FOREIGN SHIPMENTS BY RAIL AND WATER.
(Section 441 of conference bill.)

The House receded from its disagreement to the provisions of section 45 of the Senate amendment and agreed thereto with verbal changes by the conference in section 441 of the conference bill. This provision requires water carriers in foreign commerce whose vessels are registered under our laws to file with the commission a schedule of sailing dates, routes, and destinations, which schedules shall be published by the commission and distributed to railway agents for the information of shippers. On application by a shipper, a carrier by rail is required to secure from the carrier by water, which is required to furnish, rates for any specified shipment, and the carrier by water, on advice from the carrier by rail that such rates are accepted, is required to make firm reservation for the transportation of such shipment and to advise the carrier by rail of such reservation and of the prospective sailing date. Provision is made for the issuance by the rail carrier of through bills of lading under rules to be made by the commission, but it is expressly declared that the issuance of such through bill shall not constitute "an arrangement for continuous carriage or shipment" within the meaning of the interstate commerce act.

SAFETY DEVICES.
(Section 441 of the conference bill.)

Section 439 of the House bill added to the interstate commerce act a provision authorizing the commission to order a railroad to install automatic train-stop or train-control devices complying with the specifications prescribed by the commission, such order to be issued at least one year before the date specified for its fulfillment. The Senate amendment contained no such provision. The conference bill, in section 441, contains the House provision adding to the power of the commission a similar power as to other safety devices, but requiring the order, in case of all devices, to be made at least two years before the date specified for its fulfillment.

SECTION 10 OF THE CLAYTON ACT.
(Section 501 of conference bill.)

The Senate amendment in section 50 extended to July 1, 1920, the effective date of section 10 of the Clayton antitrust act prohibiting common directors of carriers and of corporations from which they purchase supplies. The House bill contained no such provision. The conference bill, in section 501, accepts the Senate provision making the effective date January 1, 1921.

UNLIMITED TICKETS.

The Senate amendment in section 51 provided that passenger tickets, except tickets at special rates for excursions, conventions, and other special occasions, shall not be limited and shall be honored when presented by any lawful owner. The House bill contained no such provision, and the conference bill eliminates it.

JOHN J. ESCH,
E. L. HAMILTON,
SAMUEL E. WINSLOW,
Managers on the part of the House.

The SPEAKER. Under the rule there is allowed five hours' debate, two and one-half hours to be controlled by the gentleman from Wisconsin [Mr. ESCH] and two and one-half hours by the gentleman from Tennessee [Mr. SIMS].

Mr. GARD. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. The gentleman from Ohio makes the point of order that there is no quorum present. The Chair will count. [After counting.] Two hundred and twenty-one Members are present. A quorum is present. The gentleman from Wisconsin [Mr. ESCH] is recognized for two hours and a half.

Mr. ESCH. Mr. Speaker, in view of the very large demand for time upon the gentleman from Tennessee [Mr. SIMS] and myself, and in view of the importance of the legislation, I ask unanimous consent that five legislative days may be allowed for Members of the House to print their remarks in the RECORD on the pending bill.

The SPEAKER. The gentleman from Wisconsin asks unanimous consent that five legislative days be allowed to all Members to print remarks on the pending bill. Is there objection?

Mr. GARNER. Reserving the right to object, Mr. Speaker, I wish the gentleman would make that "their own remarks."

Mr. ESCH. I accept that suggestion.

The SPEAKER. The request is that they be permitted to print only their own remarks. Is there objection?

There was no objection.

Mr. HULINGS. Mr. Speaker, I would like to inquire if that includes the printing of remarks of Members who have not spoken?

The SPEAKER. Yes.

Mr. ESCH. Mr. Speaker, in view of the demands made upon me for time, I shall try to confine my remarks to one hour. In that brief space I shall try to go over what may be considered material features of the bill as modified by the committee of conference.

It was stated on this floor yesterday that there had been unnecessary and unusual delay in connection with the preparation of this bill and of the report by the conference committee thereon. For the information of the House, I wish to state that the Committee on Interstate and Foreign Commerce on the 15th of July last began hearings, and on the 17th of November, just four months afterwards, a bill was passed through the House. The Senate passed its bill on the 19th of December, and two days thereafter the Senate and House bills were sent to conference, and the conferees, regardless of holiday recesses, held sessions mornings and afternoons and even Sundays, and concluded their labors last Wednesday. There has been no slacking on the job from beginning to end. If Members could realize the tremendous complexities of the problems that were presented, the diverse interests claiming recognition, and the difficulty, the almost insurmountable difficulty, of securing an agreement between the Senate and the House, they would not come to the conclusion that we have taken an unreasonable time to present this conference report. [Applause.]

The President in his message to both Houses a year ago stated, in effect, that as to the solution of the railroad problem he did not have a confident judgment of his own. Since this message no suggestions or recommendations as to the proper solution of the complicated railroad problem have come either to Senate or House Committees on Interstate Commerce from the White House. The committees therefore worked out their own solution as embodied in the pending conference report.

As to the conference report, it may be gratifying to the membership of the House to know that the form and structure of the House bill have been preserved. I think that the form and structure commend themselves to everyone because of their simplicity and because they render reference to the act much more easy. We not only secured acceptance by the Senate as to form and structure, but practically as to substance. There is but one substantive proposition contained in the Senate bill which was not contained in the House bill that was yielded to by the House conferees and yielded to only with material modifications. That is so-called section 6, providing for the rate of return on the value of the property. The other important and novel propositions presented in the Senate bill and which are not in the House bill, namely, the creation of a transportation board, compulsory consolidations, and Federal incorporation have gone out of the bill as the result of the work of the conferees. That, therefore, leaves section 6—now section 422—as the main new proposition as presented in the Senate bill.

I wish to take up some of the salient paragraphs or sections of the bill as to which material changes were made by the committee of conference. In section 201 we sought to perpetuate the operation of the barge lines on the lower Mississippi and the Black Warrior Rivers and also on the upper Mississippi River. We believed that it was absolutely essential, in view of the fact that the Government had already invested something like $9,000,000 in the barge line on the lower rivers and had commitments for several million dollars more, that this new venture should not fail, but should be continued in order to demonstrate its practicability and in order to aid transportation and relieve congestion. To that end the House bill provided that the management and operation of these barge lines should be placed in the hands of the Secretary of War. The Senate bill intrusted this to the Shipping Board. The Senate receded. The Secretary of War has jurisdiction.

In order to provide for the financing of these barge lines we make available unexpended balances out of former appropriations and also authorize an appropriation for the construction of the necessary transfer or exchange terminals at such points as East St. Louis, Natchez, a point opposite Vicksburg, Memphis, and the city of New Orleans. In view of the fact that the State of Louisiana owns the dockage rights on the Mississippi at New Orleans, private enterprise is barred, so the bill permits a loan to be made by the Government to the State of Louisiana for the construction of suitable terminals in the city of New Orleans. We trust that with this authorization in the statute it will not be difficult—and it ought not to be difficult—to secure the necessary appropriation which will make this venture on the lower Mississippi River and the Black Warrier a signal success. It can not be made a success until these necessary terminal facili-

ties and the full equipment are provided as now contemplated. [Applause.]

On the upper Mississippi we provide that should the existing contract be terminated before its term, or upon the completion of the term, then the Secretary of War is to take over the operation of the barge lines now being provided for the upper river. Like jurisdiction is given with reference to the barge line on the Erie Canal.

Another matter of considerable importance in connection with the conference report is contained in section 203, with reference to the settlement of matters arising out of Federal control.

Mr. WELTY. Mr. Speaker, will it disturb the gentleman if I ask him a question?

Mr. ESCH. I yield to the gentleman from Ohio.

Mr. WELTY. I understood the gentleman to say that an appropriation was made for the operation of these boats on the lower Mississippi, the Black Warrior River, and the upper Mississippi.

Mr. ESCH. I said unexpended balances in existing appropriations were made available for the completion of existing contracts.

Mr. WELTY. But there is nothing in the bill which provides for the continuation of the operation of those boats now constructed out of the funds allowed, namely, something over $9,000,000.

Mr. ESCH. We thought we had covered that in the bill.

Mr. WELTY. I think if you will refer to section 202 you will see that you simply refer to subdivision (a) of section 201, and do not refer to subdivisions (b) and (c) of section 201, so that this bill evidently has made no appropriation for the continuation of the barge lines and the boats that were constructed out of this $10,000,000.

Mr. ESCH. We say that authority shall be given to the Secretary of War to operate these lines. There would be warrant in that statute for the securing of appropriations to continue the operation should the unexpended balances be held insufficient.

Mr. WELTY. That is subdivision (b)?

Mr. ESCH. Yes.

Mr. WELTY. Now, if you will refer to section 202—and I do not care to be critical—it says:

For these purposes and for the purpose of making the payments specified in subdivision (a) of section 201, all unexpended balances in the revolving fund created by the Federal control act—

And so forth. But it does not refer to subdivision (b), which provides for their operation. Nor does it make any appropriation under subdivision (d). So that, if this bill passes, on March 1 there will be absolutely no funds available for the purpose of using these boats, which have been constructed at the expense of probably $10,000,000.

Mr. ESCH. I do not anticipate the difficulties that the gentleman sets forth. I believe that has been safeguarded, and that there will be no difficulty about the continuance or operation of these barge lines on the lower river.

Mr. WELTY. If the gentleman will yield further——

SEVERAL MEMBERS. No!

Mr. ESCH. I am very anxious to go on, and I am allotting to myself only one hour. I beg the gentleman's pardon.

In regard to the settlement of matters arising out of Federal control, you will notice that in section 203 of the bill we provide that there shall be appropriated in this bill the sum of $200,000,000 in addition to the amount made available in the section. The necessity for this large appropriation at this time is made clear through a request made of the conferees by Director Sherley of the Division of Finance of the United States Railroad Administration. And in order that this may be fully explained, I wish to read the statement of Director Sherley on this very matter:

In fuller explanation of the reasons that prompted the Railroad Administration to ask the conferees to carry in the pending bill an appropriation of $200,000,000 to be available for the purposes for which the previous $1,250,000,000 of appropriations were available, I beg to say that the immediate financial situation which will confront the Railroad Administration as of the 1st of March is that there will be to its credit in the Treasury and in the central administration after the payment of vouchers to meet requirements of various roads as of March 1, touching fixed charges, etc., approximately $100,000,000. There will be in the hands of Federal treasurers in the field approximately $215,000,000, and in the hands of agents and conductors in the form of cash and assets easily convertible into cash approximately $95,000,000, but these two latter sums will be fully required, together with lap-over items subsequently collected, for the payment of outstanding obligations of the Government, the greater part of these obligations being for wages for the last half of February and for materials and supplies and other current indebtedness coming over from the operation of the railroads.

By the terms of the funding section of the pending bill the Government, prior to the exercise of any right of set-off, must have furnished the carriers the sums sufficient to enable them, with other available corporate funds to meet their fixed charges, etc., and to have as a working capital a sum equal to one-twenty-fourth of the operating expense for the calendar year 1919. The requirement as to working capital, together with other requirements of the carriers, will probably result in the need of paying out to the carriers as of March 1 or shortly thereafterwards approximately $180,000,000. In addition to this immediate need there will shortly thereafter be demands made upon the Railroad Administration by various carriers for additional sums to enable them to meet subsequent interest charges. It was apparent, therefore, that in order to be in a position promptly to deal with this situation the Railroad Administration should be in immediate possession of additional funds in an amount not less than $200,000,000. As the financial statement submitted herewith shows, after these funds are made available there will need to be a final appropriation of approximately $436,322,885. It was thought there would be no valid objection to an appropriation in this bill in the amount of some $200,000,000 practically on account. This would enable the Railroad Administration to submit in regular course, as it expects to do, an estimate for the balance for the consideration of the Committee on Appropriations of the House, and subsequently of the Congress itself. The consideration of such an estimate will enable the Congress to make such inquiry as may be desirable touching details of these very large figures to the same extent that an estimate for the total of the two sums would give. The plan has the advantage, however, of making sure that the Government will have immediately available sums that are unquestionably needed as of the first of the month. If no appropriation were carried in this bill the Railroad Administration would be under the necessity of presenting an emergency estimate to the Congress and asking immediate consideration of it. After consultation with the chairman of the Committee on Appropriations, Mr. GOOD, yourself, and Senator CUMMINS, it seemed in the interest of the Government to make the request that was made, that there be carried in this bill the sum of $200,000,000.

Under the bill as agreed to by the Senate provision was made for one month's working capital. In conference we agreed to one-half month's working capital. The average working capital, based upon the Federal control period, amounts to practically $375,000,000 a month. We allow $200,000,000 as being half of one month's working capital plus a small additional amount to meet extra charges.

Unless this money is made available on the 1st of March, the Railroad Administration will not be able to meet the current accounts as they come due, and the Director General feels compelled to come to Congress and ask for this appropriation in this bill rather than to come to Congress to secure an urgent deficiency appropriation. It will not add one dollar to the Government's expense, because this is only part payment of the amount of $646,000,000 which the Government will still have to appropriate in order that we may clean up this entire matter of Federal control. I therefore trust that no objection will be made to the inclusion of this large item in the pending bill.

I have here a statement showing the various expenditures itemized and concentrated, drawn from more elaborate statements made to us by Mr. Sherley. These figures may be of interest, and I read them:

The Government's total expenditures for additions and betterments up to March 1, when Federal control is to end under the proclamation of the President, amount in even numbers to $1,152,000,000. The amount paid out for new equipment—that is, for the 100,000 freight cars and the 1,900 locomotives ordered during the period of Federal control and which were allocated to the several carriers—is $372,000,000. Of this sum $15,000,000 has already been paid in cash by some of these carriers, leaving, therefore, a balance for equipment of $357,000,000 which the Government has expended.

The amount paid for additions and betterments to roadways and equipment for the whole period of Federal control amounted to $70,000,000; but against this sum, under the terms of the bill, offsets are allowed by placing against the indebtedness of the carrier to the Government the Government's indebtedness to the carrier resulting from compensation under the Federal control act. There can be offset under the bill against the $780,000.000 for additions and betterments the sum of $461,000,000, leaving, however, as the sum to be funded $319,000,000. This latter sum is to be funded for a period of 10 years, with the option of the carrier to pay any time within the 10 years.

The net excess of operating expenses and compensation to the carriers over the operating revenues for all the roads up to March 1 is $854,000,000. There is due the corporations as compensation for interest and open accounts $1,442,000,000, against which can be applied interest due on Government notes and open accounts and additions and betterments and indebtedness of $709,000,000, making the net sum that must be paid the roads under the terms of the bill $733,000,000.

After set-offs there will be owing the Government on account of additions and betterments $319,000,000; allocated equipment—cars, locomotives, and so forth—$357,000,000; and other indebtedness which will be represented in long-time notes or one-year notes, $239,000,000, a total of $915,000,000. The total amount which the Government must appropriate to make up what may be considered a shortage is $646,000,000. If the $200,000,000 herein appropriated is made it would still leave $436,000,000 to be appropriated.

The Director General will appear before the Committee on Appropriations early in April setting forth the facts and circumstances and asking for that appropriation. In short, gentlemen,

the Government as a result of our experience under Federal control will have appropriated approximately $1,900,000,000. Of that sum $1,250,000,000 represents what has already been appropriated and the additional $200,000,000 herein provided will make $1,450,000,000.

The difference would approximately be what I have already stated the amount which the Government must still appropriate. So that this in a financial way represents our experience with Federal control. This additional sum of $646,000,000 will practically have to be charged off as a war cost. There may be those who will say that this is an expensive experiment. So it is. And yet, it is worth the price, because without the railroads during the war period transportation would have failed, and we would not have been able to supply our men across the seas with the necessities of life, with munitions, and all war material. So that the war cost that we must charge off is what we pay for the railroads' part in the winning of the war. [Applause.]

Another thing I wish to call your attention to is in regard to the short-line railroads. I do not think any one subject in connection with the bill has caused more discussion and aroused a greater interest than the short-line roads. We have sought to deal generously with those carriers. The conference agreement deals with them more generously than did the House bill. In the House bill we did not take care of all the short lines on the question of guaranty. We practically limited them to those that were in competition with the roads under Federal control, but did not take care of those "connected with" a road under Federal control.

The Senate bill had the latter provision, and the House has agreed to it. So that these short-line roads are now taken care of in the provision as to deficits and the guaranty provision. This guaranty provision is for a period of six months. Under the Senate bill there was uncertainty as to the period of the guaranty. It allowed two months in which to file claims for increases and four months thereafter in which the commission could determine the amount of such increases, leaving, therefore, the period rather undefined. The Senate has yielded and adopted the House provision as to a straight six months' guaranty.

But the question will be raised why we should guarantee at all. When Federal control ceases why not have the guaranty of the Government for a standard return also cease? The reason lies in the financial straits of the carriers when Federal control shall cease.

What is the situation? Prior to the war 60.38 per cent of the roads of class 1 earned a dividend and paid their interest. The balance did not. During the period of Federal control only 57 of the 175 class 1 roads earned their interest and only a few paid dividends. One hundred and eight of them did not earn their interest, and, of course, could not pay dividends, and many did not earn their operating expenses.

With this situation confronting the carriers on the 1st day of March, the committee of conference indorsed the attitude of both Senate and House, continuing the guaranty in the House bill for a straight term of six months.

In 1919, 108 class 1 roads lacked $60,000,000 of earning their interest and fixed charges. The net operating income last year was only practically half of the standard return which we guaranteed. Should we thrust these roads on their own resources on the 1st of March without a guaranty, I make the prediction that within three months 50 per cent of them would go into receiverships. Do we want to do that? Ought we to do it? No; because receiverships for railroads means receiverships for industrial plants and all classes of business throughout the country. [Applause.]

I believe that in other respects we have well taken care of the short lines with respect to the matter of the rule of rate making. The short line as a rule got only a pro rata of the distance haul, did not get a pro rata of really what its service was worth. In this bill we prescribe that the Interstate Commerce Commission shall have the right, even on its own initiative, to create just and equitable divisions of rates between the short line and its trunk-line connections, and we prescribe what the commission shall consider in arriving at what is a proper division of the rates. We also take care of them in the matter of the diversion of traffic. They have often suffered because the trunk line would divert traffic from the short line. We take care of them also with regard to traffic which is not routed by the shipper, but which the trunk line could at junction or terminal points divert to a favorite carrier. We take care of that situation. We also permit the joint use of terminals, and we adopt the Senate suggestion to the effect that there shall be included within terminal facilities main-line track or tracks within a reasonable distance outside of the terminal. It will avail a short line nothing if it can get to the city limits and then can not go over the tracks of the trunk line and into its terminal. We protect that situation under the supervision of the commission.

We take care of them in the matter of consolidations, and also allow them 100 per cent compensation under the Federal control act. We also take care of them in the matter of loans to carriers. I think on the whole the short-line roads have been fairly and possibly generously treated, but unless they are fairly and generously treated the trunk line itself may suffer, because the short line is the feeder for the trunk line, and it is as necessary to the people living thereon as is the trunk line to the people it serves.

In the guaranty section, the Senate bill provided that the excess of the guaranty over the standard return based on the test period should be paid into the Treasury of the United States. The House bill had no such provision. The House in this particular receded and the excess is to be paid into the Federal Treasury, but the House bill safeguarded this matter by giving the Interstate Commerce Commission supervisory control over the expenditures of the carrier during the six months, because you can readily understand that unless there is some supervisory control over these expenditures for maintenance of way, equipment, and so on, the carrier might spend so much money thereon that there would not be any surplus. The carrier might make abnormal, unreasonable expenditures. We give the commission a supervisory control over expenditures during the six-month period, and the commission can say to the carrier, "We shall demand a restatement of accounts at such time as we see fit and proper, in order that there may be no padding of the expense account of your roads during the six-month guaranty period." We go further and say to the roads that if during the six-month guaranty period they need advances to help pay operating expenses, we will make advances on proper security, and should the advances exceed the guaranty, the excess will have to be repaid.

We also provide for loans to carriers. The Senate bill had no provision with reference to creating a revolving fund out of which to loan money to carriers in need of funds. All the Senate provided was a short paragraph saying that the amount shall consist of $500,000,000. The House provision carried $250,000,000. The conferees agreed on $300,000,000. This was a very large concession by the Senate. The $300,000,000 provides for a fund to loan to carriers. Application for the loan must be within the first two years, and the loan can extend not beyond five years. It is necessary to create this revolving fund in order that the carriers may be able during this critical reconstruction period to borrow money at a reasonable rate of interest. We charge 6 per cent per annum for moneys loaned from this revolving fund.

As to the free-pass provision, I think that has caused many Members of this House more concern than even the larger and more important provisions of the bill, for everyone has been flooded with letters and telegrams in respect to it. The conferees of the House yielded to the Senate and struck out the provision relating to passes to attorneys and physicians and surgeons who do not devote the larger portion of their time to the service of the carrier. This leaves the law as it has been ever since the last amendment to the antipass provisions made by the Mann-Elkins Act of 1910.

An amendment of the long-and-short-haul clause is in the bill. It was not in the House bill. It was opposed in the House.

The Senate amended the fourth section of the interstate commerce act, but did not by any means make it rigid. The Senate amendment, in section 37, provided that, in exercising its authority to grant departures from the strict long-and-short-haul rule, contained in section 4 of the interstate commerce act, the commission might not permit rates to the more distant point which were not "fairly compensatory," nor allow a circuitous route to maintain higher rates to intermediate points. The Senate amendment also stipulated that departure should not be permitted on account of merely potential water competition. The conference bill, in section 406, adopts the provisions of the Senate bill on this subject, except that rates to the more distant point must be "reasonably compensatory," instead of "fairly compensatory," in order to be within the class of permitted departures, and an exception is made in favor of rates in conflict with the long-and-short-haul rule which have already been filed with the commission.

With reference to consolidations, the House bill provided for voluntary consolidations and the Senate bill provided for voluntary consolidations up to a period of seven years and then made them compulsory, giving the Government the right of exercising

the powers of eminent domain in condemning the securities of carriers, forcing a new incorporation under a Federal charter. We did not go that far. The Senate receded.

Mr. HARDY of Texas. Mr. Speaker, will the gentleman yield?

Mr. ESCH. Yes.

Mr. HARDY of Texas. Before the gentleman leaves the long-and-short-haul clause, is there anything in the bill that will eliminate the unjust discriminations against intermountain States and the intermediate stations that now exist?

Mr. ESCH. Yes; I think the amendment will relieve that situation quite materially.

Mr. HARDY of Texas. Permit me to explain a little bit further. The last provision we had on that question we provided that in the future no greater charge should be made for a long haul than a short haul in any new rate without the consent of the Interstate Commerce Commission.

But we provided in that bill, unfortunately, that existing discriminations should continue, if an application is filed for its continuation, until a hearing by the commission to set it aside, and under that provision these existing discriminations have continued and the railroad commission has not been able to have hearings amounting to 5 per cent of those existing discriminations, so that the bill has resulted in the perpetuation of an unjust discrimination made in the long-and-short-haul clause under the old law, and I would like to know if there is anything in this bill that will correct that status as to existing discriminations?

Mr. ESCH. Yes; I think we have taken care of that, and believe we have met some of the objections of the intermountain country. Senator POINDEXTER was specially urgent in the conference that this provision be put in the bill.

Mr. HARDY of Texas. Will the gentleman, before he concludes his speech, explain the provision?

Mr. ESCH. I am afraid I have not the time; I have already consumed 45 minutes.

Mr. HARDY of Texas. I trust the gentleman will excuse me.

Mr. ESCH. As I was saying in regard to consolidations, we leave them voluntary, and we have inserted this very salutary provision, in my judgment: before a consolidation for the purposes of ownership and operation can be effected under the permission of the commission there must be a revaluation of the companies seeking to consolidate, and under that revaluation the securities that can be issued by the constituent parts seeking consolidation can not exceed the valuation as fixed by the commission. Now, if there is any water in any road of the constituent elements trying to make up the consolidation there is an opportunity for the commission to use the squeezing-out process. We think it will have a salutary effect, to what extent we do not know. Under the bill we give the commission the power to make a survey of all the railroads of the United States, with the view of putting all the railroads of the United States into a limited number of systems. No consolidation can hereafter be made unless it complies with the plan as prescribed by the commission. We have safeguarded this matter of consolidation in every possible way.

But, gentlemen, my time is short. I shall take up what is known as section 6. You will find it in section 422 of the pending bill. It provides for a rate of return on the valuation of the railroad property either taken as a whole or within a given district or territory. This provision was not in the House bill. Against it the House conferees stood for five or six weeks and until the compromise was finally reached. The whole basis for section 6 can be found in these words in the bill, on page 91, paragraph 5:

(5) Inasmuch as it is impossible (without regulation and control in the interest of the commerce of the United States considered as a whole) to establish uniform rates upon competitive traffic which will adequately sustain all the carriers which are engaged in such traffic and which are indispensable to the communities to which they render the service of transportation, without enabling some of such carriers to receive a net railway operating income substantially and unreasonably in excess of a fair return upon the value of their railway property held for and used in the service of transportation, it is hereby declared that any carrier which receives such an income so in excess of a fair return shall hold such part of the excess, as hereinafter prescribed, as trustee for and shall pay it to the United States.

The large problem that has given difficulty to the Interstate Commerce Commission and to every regulatory body heretofore has been the fixing of rates on competitive traffic which will not allow one road to earn excessive income while another road on the same rate does not get a sufficient income. No formula has under existing law yet been discovered to meet that situation. You can meet it in two ways—by consolidation of all carriers under one system, where there would not be the problem of the weak and the strong, or under the plan suggested in section 422. The valuation of all railroad property used in the service of transportation in a given district or territory or in the country as a whole is to be made by the commission. The commission then prescribes such level of rates as will produce, as near as may be, a 5½ per cent return on such valuation. In this House I have strongly contended that we should adhere to the existing standard for rate making—that is, that rates should be just and reasonable—but longer consideration has driven me to the opinion that capital will not invest in railroad securities on merely a declaration that the commission shall fix just and reasonable rates.

Investors want something definite and fixed upon which they can reckon. The provisions of section 422 give that stability, that standard which, I trust, will encourage investment; but it is objected that we are making a standard based on the rate of return on the value of the property. What is the value of the property? For the present I acknowledge we have not yet available the physical valuation as prescribed by the act of 1913, but much information is already available to the commission secured under this act. Under section 422 the commission, in determining the aggregate value, shall give to the property investment account only such consideration as is allowed under the law of the land. We do not make capitalization—please mark this—we do not make capitalization the basis of valuation. It may amount to something, or it may amount to nothing. It is only one of the elements which the commission prior to the completion of the valuation work shall consider as laid down by the Supreme Court of the United States in the leading case of Smythe against Ames, One hundred and sixty-ninth United States Reports, opinion by Harlan, justice. What the valuation made by the commission will be I can not state. It will not be property investment account or the book cost, now estimated to be about $19,000,000,000, for everybody knows that book cost or property investment account exceeds the capitalization. Prior to 1907, when the uniform system of accounting was prescribed, these property investment accounts were no doubt padded, but since that time every dollar invested in railroad property is accounted for and can be found in the records of the Interstate Commerce Commission. It may be said, therefore, that neither the property investment account nor the capitalization will be the permanent standard of valuation. But the standard will be such as the commission will fix in the light of the information it already has and will secure as the result of the physical valuation act of 1913.

It is stated in the press and elsewhere that the railroads of the country are not worth more than, say, $12,000,000,000, based on the tentative valuation of three or four small roads, such as the Kansas City & Southwestern, the Texas Midland, and a Georgia road—as these valuations amount to only 50 per cent of the book cost or property investment account, all the railroads of the United States are worth practically only 50 or 60 per cent of their book cost or property investment account. When the valuation of the great trunk lines, the lines that do 90 per cent of the country's business, is completed I am confident we shall find that their valuation in many cases will equal and, in some, exceed the capitalization. The Burlington & Quincy has a low capitalization; the Pennsylvania has a low capitalization. The Pennsylvania in the last 20 years has invested $400,000,000, taken from its earnings without adding this vast sum to its capitalization. It spent this sum for betterments and improvements, thereby increasing the facilities of transportation and adding to the comfort and convenience of the people.

The valuation having been made, it does not mean that the Government guarantees to every carrier a 5½ per cent return upon its valuation. I know that there are some papers and some individuals who believe that section 422 constitutes a guaranty and that every road is to get a 5½ per cent return on the valuation of its property.

Nothing of the kind. There is no guaranty here in the respect that the Government must make good the difference between 5½ per cent and what the road actually does earn out of its business. There is no such guaranty. The Government does not make good a dollar. On the contrary, the Government takes one-half the excess over the fixed return and puts it into a Government fund for use in transportation. Under this section some roads may earn 2 per cent, some 3, some 4, and some 5 per cent. It will depend upon each road as to whether or not it will earn 5½ per cent. It is up to the roads, through efficiency, economy, and wise management, to increase their earnings, and if they get up to 5½ per cent or 6 per cent, in the discretion of the commission, one-half per cent being allowed for additions and betterments, not included in capital account, they keep every dollar of it. When they get beyond that there must be a division. The division is a 50-50 proposition, beyond the point where this minimum return stops.

I know there are men in this House, as there are elsewhere, who have great doubts as to the constitutionality of the power

of Congress to take this surplus and devote it to other uses than to the uses of the agency which develops the surplus. There are eminent counsel on both sides of this proposition. Ex-Justice Hughes, Mr. Thom, and Judge Lovett claim that this is an unconstitutional exercise of power. We have as eminent counsel on the other side who say they have no doubt but that it is a constitutional exercise of power. Elihu Root, John S. Miller, and John R. Milburn are of that opinion.

I am persuaded after further study, although in no way claiming to be an authority, that we have this power. Its constitutionality is further indorsed by the three men who in my opinion can speak with largest authority on the subject. These three men are Commissioner Clark of the Interstate Commerce Commission, the senior man in service on that commission, a man of great ability and large experience under the interstate commerce act. In his opinion Congress has this power; that this is no more a violation of the Constitution than it is for Congress to take excess-profits taxes and put them into the Treasury of the United States and then loan them out through the farm-loan act. He contends that this plan is the only way in which we can meet the problem of so fixing the rates between competitive points that they will not produce an excessive return to one carrier and less than a reasonable return to another. He stands for this proposition and for a division of the excess.

Who else supports this proposition? Judge Prouty, for many years the chairman of the Interstate Commerce Commission, one of the ablest chairmen that that commission has ever had, he, too, is in accord with this plan. And lastly, Director General Hines supports this plan. These three men do not have any qualms as to the constitutionality of an act of Congress giving one-half the excess to the Government.

What is the Government going to do with its half? Does it take money from one railroad and give it to another, as is so generally contended? It does not. The excess that goes to the Government goes to the Interstate Commerce Commission and constitutes a fund out of which the commission can loan money to the needy carrier at 6 per cent interest, or out of which it can purchase equipment for leasing the same to the carriers at a rental which will represent 6 per cent on the value of the equipment plus a depreciation charge.

The Government is losing nothing. This is not a guaranty. The Government will secure a large sum of money in peace times, when things again become normal. I do not expect the Government to get much of a fund in the very near future, but in time this plan will develop a considerable fund to be used for the purposes I have enumerated. So the Government is not losing anything. The Government is gaining something and commerce and transportation will be vastly stimulated by reason of it. [Applause.] We do not destroy the initiative of the carriers. I know that argument is made many times. Why, they get a half over the 6 per cent or the 5½ per cent, and that is a stimulus for the roads to use more efficiency, more initiative, more wise management, because the more the road earns above the minimum the larger the company's share will be.

We require that these excess earnings on the part of the carrier shall be utilized to develop a reserve fund that shall in time grow to be 5 per cent of the valuation of the road; and after this reserve fund has been accumulated the carrier can use the money as it deems best.

The CHAIRMAN. The gentleman has consumed one hour.

Mr. ESCH. I will occupy 10 minutes more.

I had at times some misgivings that we could come to an agreement on all these great disputed points that were submitted to conference. After eight weeks of constant effort we present our report. The Senate bill provided that the rate of return fixed in the act should continue for five years, thereafter to be changed by the commission in quinquennial periods with proper revaluations. The conference report lowers this five-year period to two years. We did this for the purpose of getting greater flexibility. We can not tell what the commercial conditions of the country will be for any period in the future.

We say that at the end of two years the stated return fixed in the act shall cease and then the rate of return shall be established by the commission. By that time the physical valuation of the roads will have been completed. By that time we will have had experience under the operation of the 5½ per cent return and with all this information the commission will be able to act wisely in determining what the rate of return shall be.

There is another matter, gentlemen, that I can only allude to briefly, and that is the question of labor. You know that the Senate provisions and the House provisions were radically different. The Senate bill provided for regional boards and for a board of wages and working conditions, with a final appeal to what is known as a transportation board. These regional boards were to take care of matters of grievances, and so forth. The wages and conditions board had charge of matters of wages and hours of service. There was more or less of compulsion all along the line. Then in case two or more employees conspired to stop or interrupt the transportation of the mails or interstate commerce, penalties were to be inflicted. This is the so-called antistrike clause of the Cummins bill. The House bill as it passed the House provided for the creation of adjustment boards, three in number, the membership of which, so far as the railroad employees were concerned, being specifically mentioned in the act. Then for each one of these adjustment boards we created a commission to act on appeals. On these boards and commissions there were to be an equal number of representatives of the carriers and an equal number of the representatives of the employees. There was no final appeal in the House bill. There was a penalty provided for a violation of the first and second sections of Title III of the House bill.

The conference report adopts portions of the so-called Anderson amendment and of the bill as the Committee on Interstate and Foreign Commerce originally reported it to the House. There is nothing in the conference bill of an antistrike character. There is no compulsion in the bill. The only thing that can be done by the railway labor board is to subpœna witnesses—to secure the attendance of witnesses—in order that a full, complete, and thorough investigation may be made.

We provide in the conference bill for the voluntary creation of adjustment boards, either by a single road or by a group of roads, by a single railroad employees' organization or by a group of railroad employees' organizations, and these adjustment boards are to have jurisdiction over disputes and matters of discipline, but not as to the matter of wages. The matter of wages is left to the railroad labor board, and this board can take jurisdiction of all appeals from adjustment boards and can determine them, and its decisions, so far as the machinery goes, is to be final.

There is nothing in the bill regarding the compulsory putting into effect of the award of this railway labor board. It relies for its effect upon the force of public opinion, and public opinion in this country is more effective than acts of legislatures and more effective than the decrees of courts. Public opinion once directed, as it will be, by the decisions of this railway labor board, will result in the adjustment of difficulties or will discourage the initiation of such difficulties. [Applause.]

I have been consistently opposed to antistrike legislation. I had not felt that it would be workable, even though it should be enacted into law, and I had come to that conclusion after a considerable study of the operation of antistrike laws in the various countries of Europe, countries which are as intelligent as our country and which have had large experience in railroad matters.

I find that whereas practically all of the countries of Europe during the first half of the last century have had antistrike legislation, and some of them had continued that legislation to comparatively recent years, these nations have repealed such laws. Let me call attention to some of these: France, by the act of 1849, made a strike a penal offense, but it was generally violated, and there were hundreds of prosecutions. So the act of 1864 recognized the right to strike on State railways particularly, as well as on public utilities. The Government in the great railroad strike in 1910, which started on the northern roads and spread to all the railroads of France, stopped that strike, although there was no law against striking. France stopped that strike, but how? By ordering the employees of the railways to the colors and threatening them with military punishment unless they responded or stayed at their tasks. But France has compulsory military service. We have not—yet. [Applause.]

Germany had no strikes prior to the war. The reason is plain. The Prussian railroads belonged to the Government, and every employee of the German roads was a Government official, semimilitary in character. Of course there were no strikes in Germany. The employees were not permitted to join unions. But since the war, since the armistice, there has not been any antistrike legislation, and the employees have the right to strike. Take Austria-Hungary. By the act of 1852 all strikes were made illegal. That law is no longer in force and effect. She has had her experience with such a law. She has repealed the law.

Italy, before 1889, made all strikes aud lockouts illegal. By the act of 1907 all State railway employees are made public servants, and yet with these laws Italy did not stop strikes. Look at the record. There were strikes in 1904, 1905, 1910, 1911, 1912, 1914, and only three weeks ago all Italy was tied up with a country-wide strike. With this experience of nations

as intelligent as our own, will antistrike legislation be more workable in America than it has been found to be in the countries of Europe?

We believe that in the bill we have presented a fair and a just method of adjusting and settling labor disputes. Even a portion of labor is in favor of this plan as presented in this bill. One hundred and ten thousand employees of railroads have expressed their indorsement of this bill. The more it is studied and the better it is understood the more it will win favor with the American people.

Gentlemen, we must pass this legislation or there will be no legislation on the 1st day of March. The President, by proclamation issued December 24, ordered that the roads should return to private operation at 12.01 a. m. March 1. I am one of those who believe that that action on the part of the President is a completed act. Under the Federal control act, which gave him the authority to return the roads prior to 21 months after the proclamation of the treaty of peace, he has exercised the power granted him in that act, and his order so proclaimed is not revocable. So that on the 1st of March the roads will return to private operation, and unless this bill is enacted there will be no legislation to take care of them in the interim. Will you run the risk? Will you fail to pass this bill to enable the roads to live? [Applause, the Members rising.]

I append a synopsis, prepared by Middleton Beaman, of the House legislative drafting service, covering the provisions of the bill relating to short-line railroads; also the proclamation of the President of December 24, 1919, relinquishing Federal control of the railroads:

PROVISIONS OF THE BILL H. R. 10453, BENEFITING SHORT-LINE RAILROADS.

REIMBURSEMENTS OF DEFICITS DURING FEDERAL CONTROL.

Section 204 of the bill, on page 9, contains an important provision for the benefit of short lines. Under the terms of this section the carrier which operated its own lines during the period of Federal control and sustained a deficit is to be paid the amount by which its deficit during that period exceeds the corresponding deficits during the test period. If it was not in operation for at least a year of the test period, the amount payable is the entire deficit during the period of Federal control.

GUARANTY FOR SIX MONTHS.

Section 209 of the bill, on page 21, includes within the definition of carriers to whom the guaranty is applicable practically all short lines whether or not under Federal control.

If the line was under Federal control and a contract for compensation was made, the guaranty is of one-half the annual amount fixed for compensation. If the carrier had made no contract, the guaranty is that the railway operating income of the carrier for the guaranty period as a whole shall not be less than one-half of the amount estimated by the President as just compensation, with opportunity to the carrier to secure additional amounts if the Court of Claims overturns the President's estimate. If the contract has not been made and no estimate of just compensation is made by the President and the road during the test period was under a deficit, the guaranty is of the amount by which the deficit for the guaranty period as a whole exceeds one-half the annual deficit of the test period. If during the test period the road had a railway operating income the guaranty is that during the guaranty period as a whole the income shall not be less than one-half the average annual income during the test period.

RULE OF RATE MAKING.

An important benefit to the short lines is contained in the provisions of section 422 of the bill on pages 88 and following, which direct the commission to establish rates so that carriers as a whole will earn a fair return on the value of their property. The section also provides that railroads earning more than 6 per cent on the value of their property must divide the excess equally with the Government. The part so paid to the Government is to be placed in a revolving fund for the purpose of making loans to the weak roads and leasing to them equipment.

THROUGH RATES AND DIVISIONS OF RATES.

Section 400 of the bill, on page 52, lines 19 to 23, adds to the existing law a provision making it the duty of all carriers to establish just, equal, and equitable divisions of joint rates.

Section 418 of the bill, on page 83, line 23, to page 85, line 5, gives the commission power in all cases to determine what are the just, reasonable, and equitable divisions of joint rates, and in reaching its decision the commission is required to give due consideration to the efficiency with which the carriers are operated, the amount of revenue required to pay their operating expenses, taxes, and a fair return on their property, the importance to the public of the transportation services of the carriers, and also whether any participating carrier is an originating, intermediate, or delivering line, and any other fact which would ordinarily, without regard to the mileage haul, entitle one carrier to a greater proportion of the joint rate than another carrier.

DIVERSION OF TRAFFIC.

Section 420 of the bill, on page 87, gives to a carrier which has been deprived of its haul by reason of the diversion or delivery of traffic from its lines contrary to the routing instructions in the bill of lading a right of action against the carrier by which and to which such diversion is made, and the damages are the total amount of the rate or charge it would have received had it participated in the haul.

TRAFFIC NOT ROUTED BY SHIPPER.

Section 405 of the bill, page 65, lines 3 to 5, makes it unlawful for any carrier to unduly prejudice any connecting line in the distribution of traffic that is not specifically routed by the shipper; and section 420 of the bill, page 88, lines 4 to 9, gives the commission power with respect to traffic not routed by the shipper to direct the route which such traffic shall take after it arrives at the terminus of one carrier or at a junction point with another carrier and is to be there delivered to another carrier. This provision removes the evil now existing resulting from the practice of the initial carrier in delivering freight at its terminus or junction point at the end of its haul to a favored carrier, thus depriving the short line of any opportunity for a fair division of the traffic.

JOINT USE OF TERMINALS.

Section 405 of the bill, in the paragraph beginning on page 65, line 6, authorizes the commission to require the terminal facilities of one carrier to be open to the use of another carrier, including within terminal facilities main-line track or tracks within a reasonable distance outside the terminal. This gives to many short-line roads opportunity to reach important traffic centers now closed to them.

CONSOLIDATIONS.

Section 407 of the bill, page 68, provides that the commission shall have authority to authorize pooling of traffic and earnings when found in the public interest. The commission may also authorize one carrier to acquire control of another by lease or stock control if in the public interest. The section further provides that the commission shall adopt a plan for the consolidation of railroad properties into a limited number of systems. Thereafter the commission may permit consolidations to be made in accordance with this plan. In all of the above cases, when the approval of the commission has been given, the carriers involved are relieved from all restraining or prohibitory laws, State or Federal, in so far as necessary to enable them to carry out any plan provided by the commission.

100 PER CENT OF COMPENSATION FOR FEDERAL CONTROL PERIOD.

Section 203 of the bill, on page 8, relieves the short lines against that provision of the Federal control act which allowed the President in cases where no compensation contract had been made to pay to the carrier only 90 per cent of the estimated amount of compensation. Section 203 permits the President to pay up to 100 per cent of the estimated amount in all cases and requires him to pay 100 per cent wherever necessary to enable the carrier to meet its fixed charges and the dividends accruing during the period for which compensation is due. The section further provides that the acceptance of benefits by the carrier will not deprive it of the right to pursue its remedies under the Federal control act for whatever amount it claims to be due.

LOANS TO RAILROADS.

Section 210 of the bill, on page 31, establishes a revolving fund of $300,000,000 for the purpose of making loans to the carriers during the two years' transition period following the termination of Federal control.

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RELINQUISHMENT OF FEDERAL CONTROL OF RAILROADS AND SYSTEMS OF TRANSPORTATION.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA—A PROCLAMATION.

Whereas, in the exercise of authority committed to me by law, I have heretofore, through the Secretary of War, taken possession of and have, through the Director General of Railroads, exercised control over certain railroads, systems of transportation, and property appurtenant thereto or connected therewith, including systems of coastwise and inland transportation, engaged in general transportation and owned or controlled by said railroads or systems of transportation, including also terminals, terminal companies and terminal associations, sleeping and parlor cars, private cars and private car lines, elevators, warehouses, telegraph and telephone lines, and all other equipment and appurtenances commonly used upon or operated as a part of such railroads and systems of transportation; and

Whereas I now deem it needful and desirable that all railroads, systems of transportation, and property now under such Federal control be relinquished therefrom;

Now, therefore, under authority of section 14 of the Federal control act approved March 21, 1918, and of all other powers and provisions of law thereto me enabling, I, Woodrow Wilson, President of the United States, do hereby relinquish from Federal control, effective the 1st day of March, 1920, at 12.01 o'clock a. m., all railroads, systems of transportation and property, of whatever kind, taken or held under such Federal control and not heretofore relinquished, and restore the same to the possession and control of their respective owners.

Walker D. Hines, Director General of Railroads, or his successor in office, is hereby authorized and directed, through such agents and agencies as he may determine, in any manner not inconsistent with the provisions of said act of March 21, 1918, to adjust, settle, and close all matters, including the making of agreements for compensation, and all questions and disputes of whatsoever nature arising out of or incident to Federal control, until otherwise provided by proclamation of the President or by act of Congress; and generally to do and perform, as fully in all respects as the President is authorized to do, all and singular the acts and things necessary or proper in order to carry into effect this proclamation and the relinquishment of said railroads, systems of transportation, and property.

For the purpose of accounting and for all other purposes, this proclamation shall become effective on the 1st day of March, 1920, at 12.01 o'clock a. m.

In witness whereof I have hereunto set my hand and caused the Seal of the United States to be affixed.

Done by the President, through Newton D. Baker, Secretary of War, in the District of Columbia, this 24th day of December, the year of our Lord 1919, and of the independence of the United States the one hundred and forty-fourth.

[SEAL.] WOODROW WILSON.

By the President:

ROBERT LANSING,
Secretary of State.

NEWTON D. BAKER,
Secretary of War.

The SPEAKER. The gentleman from Wisconsin [Mr. ESCH] used 1 hour and 12 minutes.

Mr. SIMS. Mr. Speaker, I yield to the gentleman from Kentucky [Mr. BARKLEY] 35 minutes.

The SPEAKER. The gentleman from Kentucky [Mr. BARKLEY] is recognized for 35 minutes. [Applause.]

Mr. BARKLEY. Mr. Speaker, I appreciate the responsibility assumed by any Member of the House, and especially by a member of a conference committee on legislation of this importance, when he finds it impossible to agree to the bill reported from the conference. For nearly nine months, as a member of the Committee on Interstate and Foreign Commerce, I have labored with the committee under the able and distinguished leadership of my good friend and colleague from Wisconsin [Mr. ESCH], in whose courage and honesty of conviction I have the utmost confidence, in order that we might produce a measure which every Member of this House might support without apology. But I know of no safe guide in the performance of private or public duty except the conscience and the judgment with which Providence may have endowed us. Believing, as I do, that this measure as here presented is built upon a false conception of the functions of government, that it violates the fundamental principles of this Republic, that it in effect sets up a favored class and confers upon them guaranties and safeguards accorded by legislation to no other class, I can not support it without doing violence to my convictions and to the oath which I took upon entrance into this House.

When this measure came before the House originally in November last from the Committee on Interstate and Foreign Commerce, after the elimination of certain objectionable features which it contained, I supported it as it passed the House. While I did not agree to all its provisions, it was so much better than anything that seemed likely to pass through the Senate, so much better than the measure which had been reported from the appropriate committee of that body, that I felt constrained to give it my support. Therefore it can not be claimed that my opposition to this measure as now reported is based on any mere desire to defeat railroad legislation. I recognize full well that if and when the railroads are returned to their owners there must be legislation which will properly safeguard the rights and interests of all the people. But proper and sufficient legislation can be had without chaining the American people to this juggernaut of speculation which will result from the passage of this measure.

In a matter of this great importance, involving the rights and the interests of more than 100,000,000 people, involving also a legislative departure from any precedent ever set by this or any other similar legislative body, we owe it to ourselves no less than to those for whom we propose to legislate to scrutinize to the utmost and with every instrument available the effect which the passage of this measure will have upon the people as a whole, and upon the character and traditions of our Nation.

There are several provisions of this bill to which I object, but some of those objections might be overcome if others were not so serious, and, to me, insurmountable.

I think in fairness I should also say that there are some good provisions in the bill, for which, apart from the others, I would be glad to vote. There are many salutary amendments to the commerce act which I have heretofore indorsed, and which I have in my humble way assisted in having included in the bill which originally passed the House and even in the measure now before us. But in my opinion these excellent and salutary amendments to the general commerce act are entirely overbalanced and vitiated by what I believe to be the most uncalled-for and insidious departure from the true functions of legislation ever attempted by Congress in dealing with private industry or investment.

It is not necessary in this connection to discuss in any detail the policy or the necessity which resulted in the taking over of the roads by the Government during the war. It is well known by all who are familiar with conditions that this step was a prime necessity as a war measure. It is usually futile to speculate upon what might have happened in any circumstances if something had transpired that did not transpire. Therefore it is not worth while discussing now what might have been the result in the prosecution of the war and in the maintenance of the transportation facilities of the country if the Government had not taken over the roads and placed behind them and under them the power and the credit of the Government.

But we did take them over. We did operate them during the war. We did agree to pay them a sum equal to their average income for the three years previous, and we did agree that when returned they would be in practically as good physical condition as when taken over. In order that these agreements might be kept we have taxed the American people something over $850,000,000 in order to pay out of the National Treasury the losses sustained by the Government in the operation of the railroads. This amount must be wiped off the books as a war loss, due entirely to the fact that the expenses of the roads on account of increases in wages and costs of materials were larger than the increase in revenues resulting from increased rates.

The Government, however, has done much more than merely make good this loss. It has advanced to the roads out of the Treasury practically a billion and a quarter of dollars. Congress has already appropriated $1,250,000,000, and the pending bill carries an additional appropriation of $200,000,000, and the Railroad Administration informs us, through the director of finance, Mr. Sherley, that $436,000,000 more will be necessary as soon as the roads are returned to their owners, making a total of $1,886,000,000 taken out of the Treasury of the United States for the benefit of the railroads. The human mind refuses to grasp these enormous figures, but we may catch a faint conception of what they mean when we understand that this sum represents nearly one-third of all the taxes paid into the Federal Treasury by the American people during the year just closed. Whether still other appropriations will be required need not now be discussed, but we may be prepared to expect that they will be requested if the amounts already provided for are not sufficient.

I do not claim that these enormous expenditures or advancements could or should have been avoided. It was perhaps necessary for the Government to become the creditor of the roads, since the Government possessed and operated them. But in dealing with them in this pending bill, and in providing for their operation and control in the future, we must keep constantly in mind what has already been done in order that we may not lose sight of the sum total of past and prospective future outlays in money, either directly out of the Treasury or from the people in the form of increased rates or increased taxes.

The bill now under consideration also creates a so-called revolving fund, taken from the Treasury, which is to be loaned by the Government to the railroads on long-term notes, amounting to $300,000,000. In addition it guaranties to them for the next six months the same proportionate income which they have received from the Government during the period of Federal control, and if the same ratio of revenue and expenses should prevail during that six months which has prevailed on the average during the Federal control, the loss to the Government by reason of this guaranty will amount to nearly $200,000,000. In addition to all this, the pending bill proposes to make good the losses of all the railroads sustained during the period of the war and Federal control, whether the roads were ever taken over or not and regardless of whether they rendered any service to the Government in connection with the war.

This is nothing more nor less than a gift out of the Public Treasury amounting to more than $25,000,000, which Congress is presenting to certain railroads, many of which have neither a legal nor a moral claim upon the bounty of the Government. Adding all these various sums together, we find that in addition to the clear loss of $854,000,000 which the Government has sustained during the period of Federal control, due to the causes heretofore stated, the Government will have invested in the railroads in the form of loans, advances, and expenditures for their improvement and equipment the enormous sum of more than $1,500,000,000, coming directly from the Treasury, and which got into the Treasury through the Government's power to tax the people.

Let us admit that these expenditures and this investment of public funds were necessary. Let us admit even that it was the duty of the Government to make them. We must not ignore the fact that the Government during the period of Federal control was paying the roads an average compensation greater than that which they received for any other period of three consecutive years which may be selected in all the history of American railroading, and we must not overlook the further fact that except for this enormous advancement of money by the Government for betterments, improvements, and equipment, the roads would have been compelled to borrow it from private sources or make the expenditures, so far as possible, from current earnings. In other words, during the period of Federal control the railroads have received the highest average rate of compensation for any like period in their history, have been able to pay their usual dividends and the interest on their bonds, have been able to borrow from the Government already more than a billion of dollars, and will be returned to their owners in practically as good condition as and in many instances better condition than when they were taken over by the Government.

In view of all these financial contributions to the roads by the Government and by the people, may we not with propriety pause to ask ourselves whether it is our duty, under the guise of returning the roads to their owners, to fasten upon the people of the Nation a legislative guaranty of 6 per cent, or any other per cent, upon the value of all the railroad property in the United States? May we not with propriety and candor ask ourselves

whether we should embark upon this untried sea of fixing by law the net return which shall be guaranteed to any form of private industry?

When this bill was reported to the House in November last it contained a provision authorizing the Interstate Commerce Commission, in determining the justness and reasonableness of rates and charges, to take into consideration four things: The interest of the public, the interest of the shipper, the expenses of operation, including wages and taxes, and a fair return upon the value of the property held and used for transportation.

The House will remember the serious objections which were urged against this provision, because it singled out four things, at least two of which were vague and meaningless and by implication eliminated scores and even hundreds of other matters which the commission has always considered, and ought always to consider, in passing upon rates. By an overwhelming vote in the House that provision was stricken out of the bill and the law restored and left as it has existed ever since the commerce act was passed originally. This law and the practice of the commission have required that in the adjustment of controversies growing out of rates and charges by the railroads the chief consideration should be given to the question of justness and reasonableness, and this justness and reasonableness was a quality which must be applied not only to the railroads themselves but to the public as well.

For a rate that is unreasonably high for the carriers immediately becomes unjust to the public, and a rate that is unreasonably low for the public becomes unjust to the carriers. Consequently, the rule which has required that rates must be just and reasonable has been made to apply with equal force to the roads and to the public served by them.

When this railroad bill was originally introduced into the Senate by the distinguished Senator from Iowa [Mr. CUMMINS] it did not contain the provision which has since become generally known as "section 6," but is now section 422 of the pending bill, which in the bill as it passed the Senate provided that the commission should so adjust and fix the rates to be charged by the railroads as to produce a return of 6 per cent net upon the value of the property of all the railroads in the United States, the value to be ascertained and fixed by the commission. However, when the railroad bill was finally reported to the Senate from the Senate Committee on Interstate Commerce it contained this section 6, and it was included in the measure as it passed the Senate in December; and this section, and the guaranty provisions which it contained, constituted one of the great stumbling blocks over which the House and Senate conferees labored for many weeks.

During the long hearings held by the House committee on this legislation, covering a period of more than two months and a half, when the proponents of this guaranteed return appeared and urged its inclusion in the House bill, it received scant consideration, in spite of the able counsel who were employed to urge it upon the committee. I am sure my distinguished friend from Wisconsin, the chairman of the committee [Mr. ESCH], will not contradict that statement. It was given so little serious consideration that it was not proposed by anyone in the committee, and it is doubtful whether it would have received a vote if it had been proposed.

But there has been in existence during all the consideration of this legislation an organization whose sole object has been to foist this proposal upon the American people. While the people of the Nation have been bending their energies to solve the great problems which have come to the surface as a result of the World War, while they have their minds on other things, this organization has camped on the doorsteps of Congress, engaging in and directing the most powerful propaganda ever undertaken in behalf of private interests, and as a result of their activities we find in this measure what I consider the most vicious and insidious departure from established principles of equality and justice ever sanctioned by a legislative body. This poverty-stricken organization has maintained in the National Capital for more than a year luxuriously appointed quarters, with high-salaried agents constantly on hand to urge that legislative safeguards be afforded to them which no other class of industry or investment has ever received or requested.

In order that we may understand just what this provision does for the railroads and to the people, let me state it in a few sentences. It directs the commission to "initiate, modify, establish, or adjust" rates so that carriers as a whole will earn an aggregate annual net income equal to a "fair" return upon the aggregate value of the railway property of such carriers held for and used in the service of transportation; and then follows a provision which declares that for the next two years this "fair" return shall be fixed at 5½ per cent plus an additional one-half of 1 per cent for betterments and improvements, which makes a total of 6 per cent net that the bill instructs the commission to produce on the aggregate value of all the property of all the railroads in the country. It then provides that if any road shall make more than 6 per cent under the rates fixed by the commission one-half of the excess shall be set apart in a fund to be used by the roads in making improvements and betterments chargeable to capital account, and the other one-half shall be paid to the Interstate Commerce Commission for the creation of a "revolving" fund to be used in making loans to other railroads or in purchasing equipment, such as cars, engines, and other equipment to be leased to them.

Those who have urged this proposition upon Congress have set up the claim that it is necessary to do it because the Interstate Commerce Commission has not treated the railroads fairly in the past in fixing rates. They claim that this thing must be done in order that capital may be induced to invest in railroad securities, in order that new capital may be brought into the railroad industry, in order that there may be larger extensions of railroad lines and railroad facilities in the United States. In other words, they tell us that in order that credit may be restored to the railroads of the country it is necessary for Congress by legislative enactment to put stilts under them and inject into their stocks values to which they are not entitled under normal conditions.

Let us examine the administration of the law which has existed for more than a quarter of a century. Let us look briefly into the history of railroading, the history of dividends, the history of the growth of American railroads in order to determine whether this indictment against the Interstate Commerce Commission is just or well founded. And in that connection I hope the Members of this House will not forget that the enactment of this measure in its present form is a legislative confirmation of all the charges and assertions which have been made against the commission by certain railroads which have for years been clamoring against it. It is a legislative indictment of the policy of the commission which has been upheld by the Supreme Court in scores of cases which they have decided. It is a legislative approval of all the anathemas which have been hurled at the commission by the railroad security holders who have demanded that, whatever else may happen, their dividends must be vouchsafed and guaranteed to them.

I maintain that this unprecedented, un-American, and unwholesome departure from the true functions of legislation is unnecessary, and in support of that assertion I summon the statements and records of the railroads themselves on file under oath before the Interstate Commerce Commission.

I quote briefly from a table taken from "Statistics of railways in the United States," based upon the records on file with the Interstate Commerce Commission, which is as follows:

Statement No. 21.—Amount and per cent of capital stock upon which dividends were declared, and amount and rate per cent of dividends declared for the years ended Dec. 31, 1917 and 1916, and June 30, 1916 to 1888.

Year ended.	Per cent of stock yielding dividends.	Amount of stock yielding dividends.	Amount of dividends declared.	Average rate on dividend-yielding stock.	Ratio of dividend declared to all stock.
Dec. 31, 1917:[1]					
Class I carriers and their nonoperating subsidiaries...	64.73	$5,539,378,650	$376,518,349	Per cent. 6.80	Per cent. 4.40
Class II carriers and their nonoperating subsidiaries...	18.05	63,797,350	4,860,931	7.62	1.83
Class III carriers and their nonoperating subsidiaries..	8.20	7,598,033	472,268	6.22	.51
Total, all classes..	63.32	5,610,774,033	381,851,548	6.81	4.24
Dec. 31, 1916[1]	62.02	$5,430,123,235	$366,561,494	6.75	4.19
June 30, 1916[1]	60.38	5,279,427,954	342,109,396	6.48	3.91
June 30, 1915[1]	60.45	5,219,846,562	328,477,938	6.29	3.86
June 30, 1914[1]	64.39	5,667,072,956	451,653,346	7.97	5.13
June 30, 1913[1]	66.14	5,780,982,416	389,077,546	6.37	4.22
June 30, 1912[1]	64.73	5,581,289,249	400,315,313	7.17	4.64
June 30, 1911[1]	67.65	5,730,250,326	460,195,376	8.03	5.42
June 30, 1910[1]	66.71	5,412,578,457	405,771,416	7.50	5.00
June 30, 1909[1]	64.01	4,920,174,118	321,071,626	6.53	4.13
June 30, 1908[1]	65.69	4,843,370,740	390,695,351	8.07	5.30
June 30, 1907	67.27	4,948,756,203	308,088,627	6.23	4.19
June 30, 1906	66.54	4,526,958,760	272,795,974	6.03	4.01
June 30, 1905	62.84	4,119,086,714	237,964,482	5.78	3.63
June 30, 1904	57.47	3,643,427,319	221,941,049	6.09	3.50
June 30, 1903	56.06	3,450,737,869	196,728,176	5.70	3.20
June 30, 1902	55.40	3,337,644,681	185,391,655	5.55	3.08
June 30, 1901	51.27	2,977,575,179	156,735,784	5.26	2.70
June 30, 1900	45.66	2,668,969,895	139,597,972	5.23	2.30
June 30, 1899	40.61	2,239,502,545	111,009,822	4.96	2.01
June 30, 1898	33.74	1,818,113,082	96,152,889	5.29	1.78

[1] Does not include returns for switching and terminal companies.

Statement No. 21.—Amount and per cent of capital stock upon which dividends were declared, etc.—Continued.

Year ended.	Per cent of stock yielding dividends.	Amount of stock yielding dividends.	Amount of dividends declared.	Average rate on dividend-yielding stock.	Ratio of dividend declared to all stock.
				Per cent.	*Per cent.*
June 30, 1897	29.90	$1,603,549,978	$87,110,599	5.43	1.62
June 30, 1896	29.83	1,559,024,075	87,603,371	5.62	1.68
June 30, 1895	29.94	1,485,618,453	85,287,543	5.74	1.72
June 30, 1894	36.57	1,767,925,565	95,515,226	5.40	1.97
June 30, 1893	38.76	1,809,600,846	100,929,885	5.58	2.16
June 30, 1892	39.40	1,825,705,437	97,614,745	5.35	2.11
June 30, 1891	40.36	1,796,390,636	91,117,913	5.07	2.05
June 30, 1890	36.24	1,598,131,933	87,071,613	5.45	1.97
June 30, 1889	38.33	1,629,750,927	82,110,198	5.04	1.93
June 30, 1888	38.56	1,490,267,149	80,238,065	5.38	2.08

I call attention to the fact that in 1888, one year after the creation of the Interstate Commerce Commission, one year after the passage of the act to regulate commerce, which became necessary on account of flagrantly abusive practices engaged in by some of the railroads, and before this commission had even adopted a policy of any sort or any uniformity of decisions, the percentage of railroad stock which paid dividends to the stockholders was only 38.35 per cent of the entire stock of the railroads. What was their trouble then? The commission had done nothing to them, for it had just been created. But under this repressive, stingy, and niggardly regulative body the percentage of railroad stock which paid dividends to the stockholders gradually increased until in 1917, the year before the roads were taken over by the Government, 63.32 per cent of all the railroad stock in the United States paid dividends, representing an increase of more than 64 per cent in dividend-paying railroad stock during 30 years of regulation by the Interstate Commerce Commission. This table also shows that while in 1888 the amount of dividends actually paid, if scattered over all the roads in the country, would have amounted to an average of 2.08 per cent upon the whole, under the policy of regulation under the administration of the commission subsequent to that date the condition of the roads and their earning power gradually became better until, in 1917, the amount of dividends actually paid, if scattered over all the roads in the country, would have amounted to 4.24 per cent upon the total amount of stock outstanding.

I desire to submit also and briefly quote from another table compiled from statements and records on file before the Interstate Commerce Commission showing the average rate of dividends paid by dividend-paying stock from June 30, 1892, to June 30, 1916, and for the calendar years 1916 and 1917, also the rate of earnings per mile of line, the per cent of property investment per mile for the same period, and the corporate surplus accumulations for each year from 1910 to 1917, both inclusive:

	Average income per mile of line.	Dividend rate.	Ratio of income to cost per mile of line.	Surplus accumulations.
1892	$2,194	5.35	3.77	
1893	2,099	5.58	3.88	
1894	1,729	5.40	3.20	
1895	1,743	5.74	3.26	
1896	1,853	5.62	3.48	
1897	1,781	5.43	3.29	
1898	2,088	5.29	3.75	
1899	2,188	4.96	4.02	
1900	2,479	5.23	4.53	
1901	2,593	5.26	4.69	
1902	2,776	5.55	5.02	
1903	2,852	5.70	5.19	
1904	2,707	6.09	4.23	
1905	2,896	5.78	5.10	
1906	3,212	6.03	5.58	
1907	3,343	6.25	6.61	
1908	2,841	8.07	4.78	
1909	3,145	6.53	5.34	
1910	3,487	7.50	6.73	$1,371,107,759
1911	3,156	8.03	4.87	1,541,991,152
1912	3,044	7.17	6.62	1,583,032,034
1913	3,420	6.37	6.12	1,767,320,318
1914	2,869	7.97	4.19	1,648,596,111
1915	2,840	6.29	4.09	1,556,787,176
1916	4,050	6.48	6.82	1,935,019,191
1916[1]	4,277	6.75	6.17	2,159,768,716
1917[1]	3,811	6.81	5.27	2,714,709,325

[1] Calendar year.

It will be seen from these figures that in 1892, four years after the adoption of the commerce act, only four years after the creation of the commission, the average dividend paid by the dividend-paying roads was only 5.35 per cent. But in 1917, 25 years afterwards, during all of which time this alleged repressive policy of the commission had been in operation, the dividends paid by the dividend-paying roads, comprising 65 per cent of the total, amounted to a net income of 6.81 per cent upon the stock, as represented by their dividends.

Therefore it is my earnest contention that there is no basis for the claim that in the past the Interstate Commerce Commission has held back dividends necessary to create credit among the railroads of the country.

It will be observed also from the statement contained in the table to which I have referred that during the past 25 years there has been an increase in the net earnings of the railroads per mile of line from $2,194 in 1892, until in 1916 the net earnings per mile of line amounted to $4,277, and in 1917 it was $3,811 per mile. In 1892 the ratio of income to cost per mile was 3.77 per cent, while in 1917 it was 5.27 per cent, and for the previous year it was 6.17 per cent. As already stated, the dividend rate had advanced from 5.35 in 1892 to 6.81 in 1917, and this is abundantly confirmed by the facts which show beyond all doubt that for the three years just prior to Federal control the roads had made the greatest earnings for any similar period in their history.

But these figures do not tell the whole story. The advocates of this guaranty proposal have told us that railroad construction will not continue in this country unless this guaranty of earnings is provided by law; and that it is necessary for Congress to legislate out of existence for them the ordinary hazards of business, and the human equations which enter into the question of failure or success in every other human enterprise. But in my judgment this claim, like the others, can not be sustained by the records and the information at our disposal with reference to the increase in railroad mileage in this country during the past years. I call your attention to the following table, which shows the increase in railroad mileage for each decade beginning with the year 1835 and ending with 1917:

Increase in railroad mileage in United States since 1835.

	Per cent.
1835 to 1840, from 1,098 to 2,818; net increase, 1,720	170
1840 to 1850, from 2,818 to 9,021; net increase, 6,203	220
1850 to 1860, from 9,021 to 30,635; net increase, 21,614	240
1860 to 1870, from 30,635 to 52,922; net increase, 22,287	73
1870 to 1880, from 52,922 to 93,671; net increase, 40,749	86
1880 to 1890, from 93,671 to 159,271; net increase, 65,600	70
1890 to 1900, from 159,271 to 192,940; net increase, 33,669	21
1900 to 1910, from 192,940 to 238,609; net increase, 45,669	24
1910 to 1913, from 238,609 to 249,803; net increase, 11,194	5
1910 to 1917, from 238,609 to 258,913; net increase, 20,304	8½

It will thus be seen that the increased mileage for the past 20 years amounts to more than 65,000 miles, a most remarkable record in view of the fact that gradually the virgin territory for the construction of pioneer railroad lines has grown less and less as the total mileage has increased. And while the percentage of increase for the earlier years is large as compared with the percentage for more recent years, we must not overlook the fact that as the total mileage increased, thus increasing the basis for calculation, the relative percentage would necessarily decrease, as indicated in the figures already given.

Not only has the increase in mileage in the last 20 years been enormous and uninterrupted, taking into consideration the gradual lessening of the areas suitable for railroad construction, but the increase in new construction since 1890 has kept pace with the increase in the population of the country. I quote again from the records of the Interstate Commerce Commission and from a table furnished to me by a member of that commission, showing the population of the country each year from 1890 to 1915, together with the total railway mileage for the same period, the miles of line per 100 square miles of territory, and the inhabitants per mile of line:

Summary of railway mileage in the United States, 1890 to 1915, and its relation to area and population.

Year ending June 30—	Population (official). (a)	Miles of line owned. (b)	Miles of line per 100 square miles of territory.	Inhabitants per mile of line.
Increase.....per cent.	60	58	54	3
1915	100,725,000	253,181	8.51	397
1914	99,027,000	252,231	8.48	392
1913	97,337,000	249,803	8.40	389
1912	95,656,000	246,816	8.30	386
1911	93,983,000	244,180	8.21	383
1910	91,972,266	240,438	8.08	382
1909	90,556,521	236,868	7.98	382
1908	88,938,527	230,494	7.87	373
1907	87,320,533	227,671	7.74	370

Summary of railway mileage in the United States, 1890 to 1915, and its relation to area and population.—Continued.

Year ending June 30—	Population (official). (a)	Miles of line owned. (b)	Miles of line per 100 square miles of territory.	Inhabitants per mile of line.
1906	85,702,539	222,575	7.55	373
1905	84,084,545	217,018	7.34	378
1904	82,466,551	212,577	7.20	379
1903	80,848,557	207,187	7.00	384
1902	79,230,563	201,673	6.82	388
1901	77,612,569	196,075	6.64	391
1900	75,994,575	192,941	6.51	393
1899	74,318,000	188,277	6.37	395
1898	72,947,000	185,371	6.28	394
1897	71,592,000	182,920	6.21	390
1896	70,254,000	181,154	6.15	384
1895	68,934,000	179,176	6.08	382
1894	67,632,000	176,603	6.02	379
1893	66,349,000	170,332	5.94	377
1892	65,086,000	165,691	5.78	380
1891	63,844,000	164,603	5.67	380
1890	62,947,714	159,272	5.51	384

From 1890 to 1915 the population of the country increased 60 per cent, the railroad mileage increased 58 per cent, and the miles of line per 100 square miles of territory 54 per cent, showing that population and railroad mileage have gone along hand in hand in the development of the Nation. And this parallel is more remarkable when we consider that the territory and need for new railroad construction has grown less as compared with the necessary increase in population.

Again, we have been told that in order to induce new capital to invest in railroad securities, it is necessary for Congress to guarantee a net return of 6 per cent upon the value of railroad property. That the roads have lost their credit, and in order that they may restore it, we must give them a privileged status never given by legislation to any other group of men or interests in the history of the United States. I deny that there is any such condition, or that, if it exists, it is due to anything the Interstate Commerce Commission or any other branch of this Government has done in dealing with the railroads. [Applause on the Democratic side.]

According to the statements of the railroads themselves on file before the Interstate Commerce Commission, in 1908 the railway capital of all the roads in the country was $16,198,731,489. In 1917 their railway capital, according to their own figures, was $19,754,941,991, an increase of $3,556,210,502 in a period of nine years. Their actual investment, as reported by and taken from their statements, in 1908 was $13,213,766,540, and in 1917 it was $18,574,297,873, an increase in investment of $5,360,531,333 in the same period of nine years. It seems preposterous to me to claim that the Government, through any agency it has set up, has so held the roads back, so repressed and depressed them, that they have lost their credit and are unable to invite capital to invest in them, when their actual investment has increased in 10 years more than 25 per cent, if they are telling the truth, and their mileage has increased as I have shown, their net return per mile and as a whole has constantly increased, and all the elements of growth and profit have been constantly increasing ever since they have been regulated under the law. There is but one conclusion which can be accepted as a result of these admitted facts. If the credit of the railroads has been impaired or lost, it is due to the conduct or misconduct of those who have manipulated them in an orgy of speculation, which resulted in the wrecking of many of the roads of the country in times too recent to be forgotten. [Applause on the Democratic side.]

We are asked now to pass a law that will penalize all the people in order to condone past misconduct and give value to stocks which were robbed of their value by financial manipulators. What will be the result if this measure shall pass and become a law?

My friend the gentleman from Wisconsin [Mr. ESCH] tells us that this is not a guaranty; and he is correct to the extent and in the sense that any deficit that might occur on any individual railroad would not be paid out of the Public Treasury. But I can see no difference in principle between levying taxes direct by the Federal Government to be turned over to the railroads and telling or instructing the Interstate Commerce Commission that it shall not only permit but see to it that the railroads themselves may tax the people direct in the form of increased railroad rates. [Applause on the Democratic side.]

I have asked officials of the commission to estimate for me what it will take in increased rates to restore the relationship between income and expenses which existed before Federal control and to provide for the guaranteed net return established by this bill, and I am informed that it will take increases which will amount in the aggregate to $1,214,000,000 per annum over the present revenues of the roads, to be collected from the people who are already overburdened with taxes and expenses of living. In a speech delivered not long ago by Director General Hines, whom I regard as one of the ablest railroad men in the United States, he made the statement that each dollar's increase in freight rates was multiplied four or five times in the ultimate cost to the consumer. I do not know whether his estimate is absolutely correct or not; but if we shall cut it down 50 per cent and say that he was only half correct in his estimate, the result of this legislation will be that the American people will have to dig out of their pockets between two and a half and three billion dollars for the railroads of the country in order that the unsuccessful, the mismanaged, and, in many cases, the extravagant and dishonest railroads may declare dividends, and in order that there may be injected into their stocks a value to which they are not entitled under any reasonable or normal conditions that exist in any industry in the world. [Applause on the Democratic side.]

What else will this legislation do? The gentleman from Wisconsin [Mr. ESCH] has told us to-day that this is not a guaranty. But when he presented the original Esch bill to the House in November he discussed this very question in his report to the House and made one of the best arguments against it which I have heard or seen from anybody who has discussed it. In that report, filed on November 10, 1919, after discussing at some length the objections to such a scheme from the standpoint of both propriety and legality, and with reference also to its practical workability, and after condemning it in unmeasured terms with what I believe was perfect candor and sincerity, he used the following language:

> It is contended that this plan is not in fact a guaranty, in that the Government is not responsible for losses. Yet the Government, through the commission, assures the security holders of the railroads that it will, under all circumtances and regardless of fluctuations in traffic, so adjust the rates that they will produce 6 per cent, for example, on the aggregate property investment account. This is nothing less than a guaranty.

That is the language of the gentleman from Wisconsin in his report upon the bill that passed this House in November. It was, in his opinion, a guaranty then, and it is equally a guaranty now. It is a guaranty, and the mere fact that the money which goes to make it good does not flow directly from the Treasury of the United States does not make it any the less a guaranty, because the same people who pay money into the Treasury of this Government will be compelled to pay the increased costs of transportation necessary to make good to the railroads the guaranty contained in this measure.

I can not, Mr. Speaker, support a measure which compels the people of the Nation to pay tribute to inefficiency and extravagance, in order that railroads that do not deserve 6 per cent or any other fixed or established per cent shall receive that return, and in order that the ordinary hazards of business and investment shall disappear through the magic touch of legislation. I can not support a measure which insures one class against failure by levying tribute upon others not similarly protected.

But in order to give this proposal a semblance of propriety, it is provided that if any railroad in the United States shall make more than 6 per cent, upon rates which have been declared to be legal, just, and reasonable, one-half of that excess shall be taken from it and used to create a fund to be loaned to other roads, or used to purchase equipment to be leased to them. In other words, after the commission has fixed rates that under the law are presumed to be just and reasonable, if any railroad, by honesty, efficiency, economy, and good management, should make more than 6 per cent, it is to be penalized by taking from it one-half of the excess above 6 per cent for the benefit of other roads which may not have been so efficiently, economically, or honestly managed, or which in the nature of things could not keep pace with their competitors.

I can not rid myself of the deep conviction that this is an unprecedented, if not vicious, departure from the legislative history of this Nation, for never before have we gone so far as to penalize economy and efficiency in order that the opposite qualities might receive more than their share of the rewards of honest effort. And if this policy shall be adopted with respect to the railroads, is there any reason in logic why it ought not to be adopted or why it may not be demanded with respect to other business in the United States?

The Constitution confers upon Congress the power to regulate commerce among the several States and with foreign countries. Under the decisions of the Supreme Court and the practices of the commission and other bodies from time to time established by Congress this power has developed into the regulation not only of commerce itself but also of the instrumentalities of

commerce, which includes the railroads. Therefore, if it is wise and proper, if it is in accordance with the theories and principles of our Government, that Congress shall not merely regulate commerce but shall regulate the earnings of commerce, why shall we not be compelled to follow this policy in logical sequence in the future and regulate the earnings of individuals and corporations which ship commerce over the railroads or produce things that enter into commerce? If we are to embark upon the policy of taking away from prosperous and successful railroads in order to give to unsuccessful or poorly managed railroads, why is it not just as righteous and as fair to take away from prosperous corporations or individuals a part of their earnings in order that it may be given to the improvident and the shiftless?

I maintain that neither of these things is constitutional. I took an oath when I came into this House to support the Constitution of the United States. I interpret that oath to mean that I would not, in the performance of my duties as a Member of this House, violate the fundamental law of the land upon the preservation of which depends the perpetuity of this Republic. There is a provision in that immortal document which declares that property shall not be taken from its rightful owner for the use of others without due process of law; nor can it be taken from its owner even for a public purpose without just compensation.

Let us see how this legislation will operate to do violence to that solemn constitutional safeguard to the rights of property. In order that this average of 6 per cent net may be guaranteed to all the railroads it will be admittedly necessary for those who live along or patronize well-managed, successful, and honest roads to pay more than the service they receive is worth, more than the roads themselves may ask for or need, in order that a fund may be created which is to be used for the benefit of others. Therefore if these well-managed and successful roads, under lawful rates which must in theory at least be "just and reasonable," are able by the exercise of economy and prudent business management to earn more than 6 per cent net, under the law and under the guaranties provided in the Constitution it belongs to them. If the rate is lawful, if it is approved by the commission as just and reasonable, they are entitled to earn all they can under that rate, and they are entitled to keep it as their reward for efficiency and economy.

We have no constitutional right to take away from them what they have saved honestly through efficient management in order to bolster up the credit of weak, mismanaged, or inefficient railroads. And if, upon the theory that a particular road is earning more than it is entitled to, we have a right to take away a part of its earnings, certainly we have no right, in the first place, to take it away from the people who pay it. For if a railroad earns more than it is entitled to earn or retain, it is because it is permitted or compelled to collect from the people an unreasonable rate which results in the excess, and if the people are paying an unreasonable rate to one road, in order that some other road somewhere else may be helped, we are taking away from them a part of their property without due process of law and without compensation. This, in my opinion, renders the law doubly unconstitutional. If the rates which the railroads collect are lawful rates, are just and reasonable for the service rendered, the roads are entitled to the earnings they may be able to realize from them. If they collect, even with the permission of the commission or under its compulsion, rates which are more than reasonable, and therefore unreasonable and unlawful, the excess belongs to the people, and they are entitled to retain what is theirs until it is taken away from them in the manner prescribed by the Constitution. And if this provision for taking a part of the excess shall be declared unconstitutional, and many roads are allowed or compelled to collect rates higher than they are entitled to, the result will be the taking from the people of hundreds of millions of dollars in excessive freight rates without even receiving an indirect benefit from the excess payment. There would in that event be no provision for the recapture of any of the excess or for its return to those who had paid it.

Now, let us see about the question of the valuation of the railroads upon which this 6 per cent net return is to be based. In 1913, seven years ago, Congress passed an act providing for the physical valuation of the railroads of the country. Up to the present time only five or six of them have been valued, and those five or six are contesting the valuation placed upon them by the Interstate Commerce Commission. It is admitted by everybody who knows anything about it that the valuation of the railroads of the whole country can not be completed within the next two years. Therefore during that two years we can not know with any degree of accuracy what the total value of the railroads is upon which we propose to fix this net return of 6 per cent. I received in my mail to-day a letter from Mr. Samuel Rae, president of the Pennsylvania Railroad Co., inclosing a speech which he had made somewhere asserting that the total value of the railroads of the United States amounts to more then $24,000,000,000. Under the Interstate Commerce Commission's reports their total capital is a little more than $19,000,000,000 and their total investment a little more than $18,000,000,000. Others whose opinions are entitled to consideration contend that their real value is much less than either figure given above. Whose estimate is to be taken? Whose figures are to be used as the basis upon which this tribute from the American people is to be required? It may be said that the commission shall fix its own value. But what will be its standard of valuation in the absence of the completed valuation provided for in the valuation act? Will its valuation be what it would require to reproduce the property at present prices? Or would its standard be the price the property would bring at a fair voluntary sale? Or shall the valuation be based upon earning capacity? All these standards may result in different amounts, and a combination of the three in still different figures.

The absurdity of fastening upon the country a rate structure which is designed to guarantee 6 per cent net upon a valuation that can only be guessed at is so obvious that it is almost inconceivable that Congress would seriously consider it. And the absurdity increases when we realize that this standard of return will be a permanent standard, for notwithstanding the bill provides that after the two years shall expire, after the rate structure has been set and ordained to produce 6 per cent, the commission may establish a different standard of what is a "fair" return, we know it will not be reduced, because the congressional sanction of 6 per cent as a minimum will be powerfully persuasive to operate against any reduction that might be possible. Therefore we are by this legislation compelling the commission to guarantee to the roads 6 per cent upon the value of their property when they themselves do not know what that value is.

This is a guaranty against failure. This is an attempt at legislative favoritism never before conceived by Congress nor proposed by others. It would be impossible of accomplishment if the people were fully aware of its real significance. This bill removes the incentive to individual initiative and responsibility. It takes away the hope of highest reward for work well done, the most powerful driving force that ever spurred men on to noble effort. It penalizes industry and brains and economy, and pays a tribute to inefficiency and improvidence. It reverses the doctrine of the Sacred Book by taking from those who can and will what is theirs and bestowing it upon those who can not or will not. It attempts to insure one class of investors against the risks of adversity and poor judgment, leaving all other classes to struggle along handicapped and hindered by the human frailties that beset us all. But I presume we should not despair. Congress is tedious, and the people are patient and long-suffering, and it may be that in due time legislation will remove the inequalities of judgment and foresight with which Providence has seen fit to burden us, and we will all be legislated into a common and monotonous level of intellect and merit where 6 per cent net may be our portion, whatever comes or goes.

During the past five years ending with 1919, the total liabilities of commercial concerns which failed in the United States amounted to the sum of $959,250,991, which is more than one-twentieth of the value of all the railroads of the country as claimed by the roads. There was never any thought of guaranty against loss or failure there, nor any congressional declaration of a fixed return upon the value of their property.

The liabilities of commercial enterprises and the proportion of men who enter business and fail have been variously estimated from time to time. But according to information contained in the issue of January 20, 1920, of Dun's Review, issued by the Mercantile Agency of R. G. Dun & Co., the average number of concerns in business in the United States per year during the last 30 years was 1,375,000. During that period of 30 years 391,289 commercial concerns failed. This was 28.5 per cent of the average number engaged in business during that period. Their total liabilities amounted to the enormous sum of $4,596,821,576, an amount equal to one-fourth the value of all the railroads in the United States, and do not include bank failures, amounting to $731,551,050. But nobody has ever proposed that Congress shall by legislation insure commercial enterprises against failure or financial stress. It would have been a wonderful thing if 25 or 30 years ago Congress had possessed the foresight to guarantee everybody against failure and bankruptcy. Billions of dollars in losses would have been avoided, and hundreds of thousands of men and women would have been saved from suffering and humiliation.

Why shall we guarantee one branch of industry, one kind of security, against failure or fluctuation, while we leave all others out in the weather to battle with the surging sea of competition

and strife? The merchant must take his chances of success. The lawyer and the physician must accept the uncertainty which goes with their professions. The manufacturer must undergo all the hardships and all the hazards of the producing world before he is sure of success. The farmer must contest with soil and season and all the vicissitudes which the elements may visit upon him. All these and others have no guaranty from the Government, and never have had. Perhaps they may never ask one. But is it fair to them, is it fair to the millions in this Nation who toil and spin, who ask the Government for nothing except the right to "life, liberty, and the pursuit of happiness"—is it fair to ask them, and all who shall come after them, to bear increased burdens in order that special favors may be bestowed by law upon one class which is set apart? To ask the question is to give its most emphatic answer.

I have no desire that the railroads of this country shall be dealt with other than in a spirit of liberality. I want them to succeed. I want them to pay dividends. I would like for every stockholder to be satisfied with his investment and realize upon it. But I look with great alarm upon the policy of saying by statutes what private industry shall earn and compelling those not engaged in it to make good the declaration.

I am willing to leave that liberality to the Interstate Commerce Commission. I have faith in their ability and their integrity. I think they, like everybody else, have learned something from the history of the past few years, and I know they are better qualified than Congress to determine the question both of earnings and of compensation for the services performed by the railways of this Nation. I am not willing to say by legislation that their policy in the past has been unjust, or that they have failed to recognize their obligation to the people and to the carriers over whom they have exercised jurisdiction. If Congress has lost its confidence in this great commission, which has grown in the respect and admiration of the people from its organization, it ought to abolish it and set up some other tribunal to take its place. This legislation will open a Pandora's box of trouble for the future, from which we will not soon escape. It commits us to a policy unsound in theory, insidious in its effect, and demoralizing to the Nation as a whole.

It enthrones money and makes a commodity of human labor, for while it makes it the duty of the roads and their employees to settle their wage and other controversies among themselves without resort to the tribunals set up in the act, it provides that those mutual agreements and settlements may be interfered with or set aside if calculated to interfere with dividends and net return of 6 per cent. It makes it impossible for either roads or employees to know whether their mutual and friendly settlements among themselves will be respected or permitted to endure, and thus by making everything revolve around the question of guaranteed return, forgetting the rights and the interests of those whose toil and whose patronage make success possible, this measure is designed to lift finance and the devotees of finance by pressing down upon all others.

Hence I protest against it. I protest against it in the name of the Constitution. I protest against it in the name of legislative propriety. I protest against it in the name of the sacred and fundamental doctrines of equal rights to all and special privileges to none, upon which the Nation was built and has grown great. I protest against it in the name of a hundred million people who will be compelled to pay tribute to the blunders of the past and the improvidence of the future. It is in this spirit that I express the hope that this measure may be sent back to the conference committee, where its objectionable features may be eliminated and a measure brought back which men can support without apology or regret, in the belief that they have performed their duty to their country. [Applause on the Democratic side, the Members rising.]

Mr. WINSLOW. Mr. Speaker——

Mr. SIMS. Does the gentleman from Wisconsin wish to yield to some one now, or shall I do so?

Mr. WINSLOW. Yes; we will yield to some one now, if agreeable to the gentleman from Tennessee.

Mr. SIMS. If it is agreeable to me that the gentleman from Wisconsin should yield further time?

Mr. WINSLOW. Yes.

Mr. SIMS. Certainly.

Mr. WINSLOW. I yield, in behalf of the gentleman from Wisconsin [Mr. ESCH], 15 minutes to the gentleman from Pennsylvania [Mr. DEWALT].

Mr. DEWALT. Mr. Speaker and gentlemen of the House, if one were to accept all the premises that are laid down in an argument made by any individual, it would follow as a matter of pure reasoning that the conclusion arrived at by that individual was correct. And, therefore, if one were to accept all the premises laid down by the gentleman from Kentucky [Mr. BARKLEY], it would follow naturally as a sequence in reasoning that his conclusion was correct. But some of the premises laid down by the gentleman from Kentucky [Mr. BARKLEY] are not correct.

In the first place, he asserts here, and asserts it beyond the fear of contradiction, that there is an explicit guaranty of 5½ or 6 per cent to every railroad in the country. I assert with equal positiveness, as a lawyer, that nowhere in this bill—in any line thereof—can he find by clear implication or by direction that there is a guaranty to any specific railroad of any particular amount. [Applause.] The contingent fund is to be devoted to certain purposes clearly outlined and defined in the bill, and it nowhere expresses any intent or declaration that any road in any region nor any road in a system as a whole is to be given a guaranty of either 5½ or 6 per cent. All that the contingent provision does say is that it shall be raised from the excess earnings of the various companies, and that it shall be paid to the Interstate Commerce Commission as a trustee, and that that trustee shall pay out that money for the improvement and betterment of the various companies as the need may be, and for the payment of rental for leased lines for transportation facilities. There is a vast difference in the explanation of the gentleman's bill as he defines it and in the explanation of the bill as it is written. Therefore that premise is not correct, and therefore his conclusion is not correct.

In the next place, he says this legislation is an indictment of the Interstate Commerce Commission. I refute that. One of the most prominent members of the Interstate Commerce Commission is Mr. Clarke; another, an ex-member of that commission, is Judge Prouty; and both of them indorse this legislation and this plan. [Applause.] Would they, as members and ex-members of this commission, be willing to write an indictment against themselves and then plead guilty to the same? So much, then, for these premises that are laid down by my distinguished friend from Kentucky.

Now, let us get down to the essence of this thing. I have prepared here in my humble way an argument as to the constitutionality of this clause in reference to rate making. I have some preliminary remarks here which I desire to have placed in the RECORD, but rather than take up the time of the committee—and only 15 minutes have been assigned to me—I propose to get right down to the question that has been propounded by the gentleman from Kentucky [Mr. BARKLEY], to wit: Is this provision of rate making and this division of the excess earnings of these various companies constitutional or not? I have just as much reverence for the Constitution as the gentleman claims and no doubt has. I do not know a man upon the floor of this House who does not join in that sentiment. But there are various constructions of what may be or may not be constitutional. And right here I beg leave to differ with the gentleman in regard to this construction.

Now, let me give you, if I can, very briefly, the reasons for my belief. I have, preliminary to what I am about to say, summarized the provisions of this clause of the bill. I have pointed out, as well as I am able, that this bill endeavors and does actually consider the transportation systems of the country as a whole or in regional districts. I have tried to show that the bill considers that phase of the question, and that phase of the question only, in making up these rates, and determining what shall be a just, fair, and reasonable rate. And there can be no doubt that if anyone reads the bill he must come to the conclusion inevitably that the purpose of the legislators here was to consider the transportation system of the country as a whole or in regions to be designated by the Interstate Commerce Commission. Now, taking that as a premise, what follows?

During the consideration of railroads, and so forth, under Government control one should be able to free his mind from all prejudice, local sentiment, or personal interest, and at the same time try to legislate for the greatest good to the greatest number, regardless of classes or persons or interests directly and selfishly affected. This may be difficult, as all are naturally subject to the influences of environment and personal welfare, but the duty is imperative when one honestly desires to obtain the best results. The mere statement of some facts will demonstrate the above assertion. This legislation affects the welfare of all the people of this country, in number over 100,000,000. The mileage of the railroads in the year 1918 was 257,618 miles, and of this mileage 240,179 miles were taken over by the Government. The stockholders owning this mileage number 670,000; the bondholders of the various railroads over 300,000. In 1913, $1,200,000,000 of railway stocks and bonds were held by savings banks and trust companies, and it is now estimated that savings banks, with over 4,000,000 shareholders, held $1,500,000,000 in railway securities in 1918. In addition to this, it is estimated

that the National and State banks hold at least $500,000,000 of railway securities, and that the life insurance companies have of their assets above 30 per cent invested in such securities. Over 2,000,000 men are employed in railroad service, with a total pay roll of over $2,500,000,000 per annum, and the amount invested in 250,473 miles of line in 1918, with deductions properly made, was nearly $18,000,000,000.

When, in addition to these startling facts, we also consider the great number of people dependent upon the 2,000,000 railway employees, and the very great number of shippers and travelers over these arteries of trade and communication, one should be more than ever impressed with the gravity of the problem that confronts the legislator in trying to solve it and obtain the best remedy in the solution.

There are many who are opposed to any form of legislation at this time and who approach this subject in a spirit of opposition. There are others who seem to be governed by partisan feeling, and again others are influenced by class distinction; and there may be—and no doubt are—many who are selfishly influenced by financial considerations. Whilst all these elements naturally have some weight in the personal determination of the legislator, I sincerely believe that one should attempt to free himself as much as possible from these considerations and view the matter solely in the light of the greatest good to the greatest number, and with the desire to enact some legislation rather than to oppose all forms of legislation because of the considerations above mentioned. The subject is so large that in the limited time given for debate no one can fully discuss the entire theme, and I shall not attempt in the brief time allotted me to discuss more than one feature of the conference report and the bill submitted by the conference.

I, however, shall refer to section 422, page 88, of the present bill, which contains the rule of rate making, and the discussion of which is found on pages 67 and 68 of the conference report. In brief, this section directs the commission to make rates adequate to provide the carrier as a whole—either in the entire country, or in rate groups or territory to be established by the commission—with an aggregate annual net railway operating income equal, as nearly as may be, to a fair return on the aggregate value of the railway property held for and to be used in the service of transportation. The designation of the rate districts is left to the discretion of the Interstate Commerce Commission, and the same commission is authorized to determine the value of railway property and is specifically directed not to give undue consideration to the property investment account of the railroads. The commission is also authorized from time to time to determine and publish what percentage constitutes a fair return on the value of railway property, except for the two years beginning March 1, 1920. The bill declares in this section that 5½ per cent of the aggregate value of the railway property, as above ascertained, shall constitute a fair return, unless the commission in its discretion adds thereto, in whole or in part, one-half of 1 per cent of such value, to make provision for improvements and betterments chargeable to capital account. The result of these provisions is that 5½ per cent is fixed as a minimum and 6 per cent as a maximum during the next two years, and thereafter the matter is left to the discretion of the commission.

The bill further provides, in this regard, that if any carrier earns in any year a net railway operating income in excess of 6 per cent of the value of its railway property, as above ascertained, one-half of such excess must be placed in a reserve fund until such fund equals 5 per cent of the value of the carrier's property, and thereafter may be used for any lawful purpose by the carrier. The other one-half of such excess income must be paid into a general railroad contingent fund to be administered by the Interstate Commerce Commission, and this contingent fund is to be used to make loans to carriers, to meet expenditures for capital account, or to purchase equipment, to be leased to the carriers. The making of such loans and the obtaining and leasing of such equipment are left to the discretion of the Interstate Commerce Commission.

The above analysis and statement briefly sums the gist of this portion of the bill. It will be noted the rate-making power still remains with the Interstate Commerce Commission, and it should also be noted that the commission shall not only initiate but that it has the right to modify or adjust rates, so that carriers—or as a whole in each of such rate groups or territories as the commission may from time to time designate—will under honest, efficient, and economical management and reasonable expenditures for structures and equipment earn an aggregate annual net railway operating income equal, as nearly as may be, to a fair return upon the aggregate value of the railway property of such carriers held for and used in the service of transportation. Let me call your attention to the phrase, "A fair return upon the aggregate value of the railway property of such carriers held for and used in the service of transportation."

The commission is also charged with the duty of considering, in the making of rates, the transportation needs of the country and the necessity of enlarging such transportation facilities, and it is impressed with the duty of making rates uniform for all in the rate group or territory which may be designated by the commission, and, further, that in consideration of this question of rates, due consideration shall be given to all the elements of value recognized by the law of the land for rate-making purposes, but shall give to the property investment account of the carrier only that consideration which under such law it is entitled to in establishing value for rate-making purposes.

From the reserve fund above mentioned the carrier may draw a sum sufficient to pay dividends or interest on its bonds or other securities or rent for leased roads, except only, however, to the extent that its net railway operating income for any year is less than a sum equal to 6 per cent of the value of the railway property held for and used by it in the service of transportation, determined as hereinbefore referred to, and this reserve fund shall not be drawn upon for any other purpose.

The purposes of the contingent fund have already been mentioned, but are more specifically set forth on page 94 of the bill under subdivision 10 of section 211. In brief, this contingent fund shall be used by the commission in the furtherance of public interests in railway transportation, either by making loans to carriers to meet expenditures for capital account or to refund maturing securities originally issued for capital account or by purchasing transportation equipment and facilities and leasing same to carriers—all such loans to be adequately secured—and if there is a balance remaining in the contingent fund it shall be invested in obligations of the United States or deposited in authorized depositaries of the United States from time to time.

Care has been taken in this summary to present the salient features of this portion of the rate-making provision, because argument, no doubt, will be made that the creation of such a contingent fund and such a reserve fund and payment to the Government of the earnings in excess of 6 per cent and dividing the same in the way designated by the provisions of the bill is unconstitutional, in that when a carrier under the rules and regulations prescribed, declaring how a rate shall be made and how it shall be earned, earns more than the designated per cent that the earning carrier is legally entitled thereto. In other words, that when a rate has been declared a reasonable rate, and that rate which has been ascertained by certain rules is also declared to be just and reasonable, no portion of the earnings obtained by such rate can afterwards be declared as unfair and unreasonable, and that the taking away by the Government, except by taxation or similar process, is unlawful and unconstitutional. I am frank to say that when I first met this problem my old-fashioned idea of the rights of property and the sanctity thereof inclined me to the belief that this position was well taken, but approaching the matter with an open mind and a sincere desire to do what is best under all circumstances and having due regard to the legal phases of the question I am now of the opinion that this form of rate making and this division of excess earning above specified, 6 per cent, in the way provided in this bill is warranted by law. I desire, without unduly lengthening this argument, to give my reasons for that belief.

The leading case upon this subject, in my judgment, is that of Smyth against Ames, One hundred and sixty-ninth United States, page 524, in which it is explicitly decided that "the legislature has power to fix rates, and the limitation of judicial interference is protection against unreasonable rates." "This power, however, is not a power to destroy nor to compel service without reward." Budd against New York, One hundred and forty-third United States, pages 517 and 547. It seems clear from this case that under the commerce clause of the Constitution the Federal Government has the undoubted right to fix rates, and that the limitation upon that power by judicial interference is protection against unreasonable rates. In other words, the rates must be fair and just and reasonable. They dare not be destructive or confiscatory, nor dare they be such as to compel service without reward.

On the other hand, it is not compulsory upon the legislature to enact such laws as to insure to the railway company or like corporation such return as would pay a reasonable profit upon an honest investment, because it is decided in the Covington & Lexington Turnpike Co. against Sanford, One hundred and sixty-fourth United States, pages 578, 596, and 597, that such company is operating a public highway for use of the public,

and even though a loss is incurred by the stockholders in the operation of such public highway, such loss would not be an excuse for an unreasonable rate. In other words, investors must take their chances in some degree. A railway company also operates what might be termed a public highway, but when it obtains its charter its rights are impressed with the duty of rendering service to the public, and also with the knowledge that the rights of the public are paramount and superior to the rights of the individual or corporation, so far as such public service is concerned.

In this connection let me also refer to the Chicago & Grand Trunk Railway against Wellman, One hundred and forty-third United States, pages 339 and 344. Going one step further in this matter let us ask, Is 6 per cent a reasonable return for such investments? In that connection I refer to the case of Wilcox against the Consolidated Gas Co., Two hundred and twelfth United States, page 49, in which it is declared that such a per cent would be reasonable under the circumstances attending that case, and in that case consideration is given to the risk. It therefore follows that the Supreme Court has declared that 6 per cent can be established under such circumstances as a reasonable return and a fair return for such investments of this character. If you have thus far followed me, and agreed with me that Congress has power to fix rates, and if you also accept the decision in the Wilcox case, that the legislature can fix a certain per cent as reasonable, then the remaining question is, If a railroad company, under the rules of rate making as established, earned more, can such amount above the established per cent be taken by the Government and used by it for purposes indicated in the bill? In this connection it must be observed that the Government is not taking from the railroad company anything which it now possesses. It is not violating any contract relation between the Federal Government and the railway company. It is not legislating for the past; it is legislating for the future; and, therefore, I maintain that this legislation is not taking a property right of the railroad company; it does not take at this time anything which the railroad now possesses, either in land or tenements, or in present profits or earnings.

What it is attempting to do and what it actually does is to limit the amount that the railroad company shall receive as a fair and reasonable return upon its investment in property used for transportation service and in other investments made as specified in the bill, but even if this were not so the Supreme Court of the United States in defining the regulatory power of the Federal Government under the commerce clause of the Constitution has gone so far as to say that though a contract is valid when it was made as between a railroad company and an individual that if subsequent to the making of that valid contract Congress passes legislation which invalidates that contract for the purposes of interstate commerce such contract is nullified by such legislation. The statement of this is very clearly set forth in the case of Louisville & Nashville *v.* Motley (219 U. S., 467), with particular reference to page 485, in which it is decided that "if one agrees to do a thing which it is lawful for him to do and it becomes unlawful by an act of legislature the act avoids the promise."

This case clearly establishes that Congress has the right to regulate interstate commerce and that such right is not negatived or impeded by a contract which in any way directly interferes with proper regulations, even though the contract when made was valid, and also that when the rights were given under a charter or contract they were given with the knowledge that future events might compel modification or change in the interests of interstate commerce. A very curious case in this regard is referred to in the Motley case, and that is the case of the Union Bridge Co., in which the bridge was constructed over a navigable stream and after it had been completed for a number of years it was determined by the Federal authorities that the bridge somewhat impeded navigation and the Government compelled an alteration of the bridge to meet the new requirements and also was sustained in compelling the bridge company to pay the expense of such alteration. A similar decision was rendered in the Scranton bridge case, where the piers were erected on submerged land and it was afterwards determined that this structure must be changed and the expense thereof paid by the bridge company. All this notwithstanding the fact that at the time the bridges were constructed they had been approved by the Federal authorities under acts of Congress and charter privileges had been given for the making of such bridges.

The Minnesota rate case (230 U. S., 432) has been referred to in an argument on this subject, and in regard to that case permit me to say that Justice Hughes in rendering the decision clearly recognized the power of the Federal Government to supervise the rates of intrastate commerce when they are so intermingled with interstate commerce on roads engaged in both and when in the interests of interstate commerce such regulation becomes necessary. I beg leave to quote what he said in that case:

> But these considerations are for the practical judgment of Congress in determining the extent of the regulation necessary under existing conditions of transportation to conserve and promote the interests of interstate commerce.

I take it, therefore, that the Congress has the right to fix the definite per cent under its regulatory power given by the commerce clause of the Constitution. I affirm also that such definite rate may be a certain amount, to wit, 6 per cent; and now what shall be done with the surplus earnings of any one road, providing that this road is in a group in a rate region or territory? This bill considers the transportation system of the country as a whole. It also considers it in regional territories and declares that in such territories the rate system shall be uniform.

The rights of the public are to have efficient transportation not only over one road but, if possible, over all roads in the country. The rights of the public are paramount and superior to the rights of any one unit in the transportation system. Under the rate-making power and under any rule that may be established it would be impossible to make all rates for all roads, considered as units, exactly just, fair, and reasonable. In the very nature of things some would be excessive and others to the contrary. It therefore follows that in order to serve the public by a general transportation system—considered as a whole, or, if you please, considered in regions—there must be some plan devised by which equalization can be obtained as nearly as possible, so that all parts of the system, as a whole or as a region, may be efficiently and economically administered and a fair and a just return upon property investment honestly made.

If this bill did not consider, and in its very terms provide for, the use of this reserve fund and this contingent fund, obtained by the excess, in the way that it does, there might be some question as to the constitutionality of this provision; but the bill provides that a fair return shall be ascertained, and in making such determination the transportation needs of the country shall be taken into consideration, and that inasmuch as it is impossible, "without regulation and control in the interests of the commerce of the United States, considered as a whole," to establish uniform rates upon competitive traffic which will adequately sustain all the carriers which are engaged in such traffic, and which are indispensable to the communities to which they render the service of transportation, without enabling some of such carriers to receive a net railway operating income substantially and unreasonably in excess of a fair return upon the value of railway property held for and used in the service of transportation, it is hereby declared that any carrier which receives such an income so in excess of a fair return shall hold such part of the excess, as hereinafter prescribed, as trustee for, and shall pay it to, the United States; and then the bill provides that the United States, when receiving this fund from the trustee, again becomes a trustee, and it shall expend this excess, which is then a contingent fund, for the furtherance of the public interests in railway transportation, either by making loans to carriers to meet expenditures for capital account, or to refund maturing securities originally issued for capital account, or by purchasing transportation equipment and facilities and leasing the same to carriers as hereinafter prescribed, and that moneys in the fund not so employed shall be invested in obligations of the United States or deposited in authorized depositaries of the United States. What, then, becomes of this surplus fund above the 6 per cent? A portion of it is used to create a reserve fund for the benefit of the company, which portion shall not exceed 5 per cent of the honest investment of the company in property held for and used in the service of transportation, and the other half of the excess income is to be paid into this general railroad contingent fund to be administered by the commission, not for the benefit of any one particular road nor for the benefit of a few particular roads, but for the benefit of the transportation system considered in regional districts as a whole where rate-making power has been enforced.

With all due deference, then, to the opinion of others, I maintain that this provision in the bill is not only constitutional but that it is for the furtherance and conservation of the transportation facilities of the country.

Because of these reasons and these authorities cited, I beg leave to differ with the gentleman from Kentucky as to the constitutionality of this provision. [Applause.]

Mr. SIMS. Mr. Chairman, I yield three minutes to the gentleman from Pennsylvania [Mr. BURKE].

Mr. BURKE. Mr. Speaker, this bill is one of the most nefarious one-sided measures ever offered a legislative body for action. It hurls insult and defiance in the face of 2,000,000 railroad men,

and it is an affront to every Member of Congress who believes in a "square deal" and common justice to the working people. [Applause.]

The bill gives the railroad corporations of the country everything that they desire; it presents them with $300,000,000 of the people's money to finance them, guarantees them 6 per cent on their stocks and bonds, perpetuates the freight rates set up during the period of war, and provides the way for their further increase.

The bill, indeed, provides generously for the welfare of corporate interest, but in no spot or place has protection been accorded the public or the great army of railroad employees. This bill as reported by the conference committee places property rights above human rights; it makes the rights of capital superior to the rights of the common people.

On November 14 last, after a hard battle, a bill passed this House carrying with it a fairly decent labor section, and while it was not altogether satisfactory it was accepted because it did protect the employees of the railroads, in so far as it perpetuated the wages and working conditions granted them by the United States Government. This House bill also took good care of the railroads; it provided them with a revolving fund of $250,000,000, and through its provisions assured the railroads that they would prosper on their return to private ownership, but because it contained a fair labor section it was not satisfactory to the "big interests" of the country, and I have received in my office booklets and pamphlets calling attention to the good features of the bill that protected the railroads but declaring it was inconceivable that Congress knew what it was doing when it passed the bill with the Anderson amendment perpetuating the wages and conditions granted the employees of the railroads by the Government. I am led to believe, too, that possibly this had something to do with the side tracking of the House bill and is the reason for the present damnable, drastic bill which ties the railroad men hand and foot being substituted in its place.

The SPEAKER pro tempore (Mr. MANN of Illinois). The time of the gentleman from Pennsylvania has expired.

Mr. BURKE. Will the gentleman let me have five minutes more?

Mr. SIMS. Mr. Speaker, I yield five minutes more to the gentleman.

The SPEAKER pro tempore. The gentleman is recognized for five minutes more.

Mr. BURKE. This bill, with its compulsory arbitration board, is no more like the bill that passed the House last November than day is like unto night.

True, it takes better care of the corporate interest, but not one atom of protection is accorded the great army of workers. It deals a body blow to their organized efforts to at any time attempt to better their condition or secure an increase in wages, because the compulsory railroad labor board established is aimed to destroy the railroad organizations.

This bill makes sure in more ways than one that the men are tied. It gives the railroad managements the privilege of having the compulsory board interfere if the management even suspects there will be any trouble. It plays further into the hands of the managements, in so far as a petition signed by 100 unorganized workers could have the board interfere in any dispute, and it leaves the board free to act of its own accord and intervene in any wage dispute. The railroad employees have no choice but to go to the board. They are forced under this bill to accept the findings of the board. What an injustice! What a crime against a loyal and law-abiding class of American citizens!

The talk going around of it being necessary to do something to prevent strikes will not deceive anyone; it is all tommy-rot, and is only an excuse to hide behind doing what the "big interests" of the country want done, and to detract the attention of the public from other features of the bill. For 35 years there has been no nation-wide strike; the men have gone along and settled their own differences, and it has not taken a compulsory board, established for corporate interest, composed of nine members, comprising six against one, at a salary of $10,000 each per year, or $90,000 yearly of the people's money, to effect a settlement.

Let me say to this Congress that compulsory arbitration is just as objectionable to the American people as antistrike legislation; and there is a reason for it, for the working classes have always received the worst of it when their differences were submitted to arbitration.

However, so that no Member of Congress may deceive himself, or attempt to justify his action in voting for this bill, which in its present shape is considered by the working people of the country as an outrageous encroachment upon their constitutional rights, let me say that there is just as much antistrike in this bill as in the original Cummins bill passed by the Senate. The wording may be changed, the issue beclouded, but the antistrike feature is embodied in the compulsory board established, and the rights of the railroad employees jeopardized.

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania has again expired.

Mr. BURKE. Will the gentleman give me just one minute more?

Mr. SIMS. The gentleman has the right to extend his remarks.

Mr. BURKE. Just one minute more. I want to finish this statement.

Mr. SIMS. I yield to the gentleman one minute.

Mr. BURKE. Just think of it! The railroad employees are to have a board to regulate their wages and working conditions; a board with authority to reduce wages if it sees fit. But the meat packers of the country can fix the price of meat without any interference by a board; the shoe manufacturers of the country can fix the price of shoes; the clothing manufacturers, the price of clothing; the food profiteers and all the exploiters in the necessities of life can establish their own prices without any tribunal to interfere. But the man whose life is daily endangered by his work, who earns his wages honestly, must pay the prevailing prices in food and clothing, for he has no say in the matter, and the only restriction made upon him is that he must have no say in regard to his own wages or working conditions. A board established by law will decide that matter for him.

When the President, in taking over the railroads, declared that they were the arteries of the Nation's life and called on the railroad employees to do their part and keep the trains moving, the men responded with a generosity and a loyalty unequaled in history. All through the period of the war they stood at their post of duty; they kept troop trains moving, equipment trains going, and when other fields of labor offered better opportunity they remained at their post because they were skilled in the work, experienced in their line of duty, and though the wages they received were insufficient and far less attractive than those paid in other lines of work, the railroad man considered himself as a soldier on duty; he placed his country's interest above his personal interest and was faithful to his duty, because no inexperienced man could do his work.

It is a poor return for their loyalty and a scant appreciation of their services to attempt now to restrict them in their rights and to hamper them in such manner as to prevent them getting a "square deal."

The railroad men desire a continuation of Government ownership for at least two years in order that it might be thoroughly tested, but as this Congress is determined to return the roads at any cost, and Government ownership seems out of the question, then I believe the least thing Congress can do is to send this bill back to the conference committee with instructions to bring in a bill with a fair and decent labor section; to be just as generous to the human interest as it has been to the corporate interest.

This Congress can not justify the passage of any bill which places the value of corporate wealth above the value of human rights, and no Member can ever justify his position or explain to the American people why he votes to protect the railroad corporations of the country and to destroy the constitutional rights of 2,000,000 American citizens. [Applause.]

Mr. SIMS. Mr. Speaker, I yield three minutes to the gentleman from Ohio [Mr. WELTY].

The SPEAKER pro tempore. The gentleman from Ohio is recognized for three minutes.

Mr. WELTY. Mr. Speaker, three classes of people are vitally interested in this legislation—railroad owners, the employees, and the public—but this report does not attempt to care for the shipper and the general public, probably because they did not have their representatives at the Capitol during the period this bill was under consideration.

In the matter of the labor section, I can not agree with the gentleman from Pennsylvania [Mr. BURKE], who has just spoken on this report. After reading the labor provision over and over again, I do not find where any person is compelled to submit to even compulsory arbitration. Section 302 provides for an adjustment board composed of employers and employees and gives this board power to decide all disputes. Section 304 provides for a Railroad Labor Board composed of nine members, three from the employers, three from the employees, and three to represent the public, all to be appointed by the President, by and with the advice and consent of the Senate. But the Railroad Labor Board has no jurisdiction to settle disputes unless the adjusting board, composed of employers and employees, are unable to agree.

Thus you will see that any employee can quit his employment whenever he pleases, and is required to arbitrate only if there is a difference which can not be settled by the adjustment board. But, if there is an honest difference, why should either the employee or employer refuse to discuss their differences? The railroads are not operated in behalf of the owners and employees alone, but there are over a hundred million people directly or indirectly affected if transportation should be stopped because of a difference between the employers and employees. I am against any antistrike clause, because I do not see where any good can be accomplished by forcing a man to work if he does not want to; but I do think he should not cause others to quit until after arbitration is exhausted. Another feature I would like to see enacted is to make it unlawful to discharge an employee without cause. I want to make these statements because I shall vote to recommit the report to eliminate certain objectionable features, and if the same is not carried I shall vote "no" when it comes to the passage of the bill; but I will not vote against this report because of the labor features contained therein but because of special legislation in behalf of the railroad owners.

SPECIAL LEGISLATION AND COURT DECISION.

However, special legislation is not a new feature, for labor has a number of times received special favors at the hands of Congress since 1912. In 1914 Congress passed what is known as the Clayton Act, exempting labor unions and farm organizations from the operation of the Sherman antitrust law, and since the decision of the Danbury Hatters' case, in 1908–1915, Congress specifically exempted labor and farm organizations when appropriating money for the enforcement of the Sherman antitrust law. I am calling these matters to the attention of labor and farm organizations because strong efforts will be made to repeal these special acts, and although I am against the passage of class legislation I do not think it should be done until the cause is removed.

And, Mr. Speaker and gentlemen of the House, the cause is not with the legislative branch of our Government, but because the judiciary has utterly failed to interpret the Sherman antitrust law. Congress never intended that this act should apply to labor and farm organizations, but to combinations of capital in restraint of trade. Yet the Supreme Court enforced this law strictly in 1908 and 1915 in the Danbury Hatters' case, when the rights of labor were involved, but made a farce of it in the Standard Oil and Tobacco cases in 1911, in which cases they held that reasonable restraint was permissible. Because of these decisions the case against the United States Steel Co. et al., in which the Government charged unlawful combination in steel, and the case of United States against Reading Railroad, where the Government charged unlawful combination in coal, have been on the docket since that time and still remain undecided by the court. These cases were again argued by the Department of Justice last October. Now, I happen to know something about the Steel Trust. They pride themselves as being a $2,000,000,000 corporation. While prosecuting attorney of my county I remember a few cases where the grand jury indicted certain steel combinations who sold bridges to the county for twice their value, and pipes for four times the market price. I remember in one case the county paid a little over $10,000 for a bridge, and the evidence showed that the contractor paid out one-half of this amount to the other contractors in order to induce them to bid higher. This was in 1908 and 1909; they were crude then. I was able to produce the drafts showing payments to others who never furnished a pound of steel to my county, and this same Steel Trust had their subsidiary agents present at the different lettings. I do not know the character of the evidence submitted to the Supreme Court by the Department of Justice, but in my county the babes and sucklings know how they made some of their billions, yet the Federal courts have been contemplating since 1911 whether these and other acts constitute a violation of law.

In the face of these facts, is labor justified in its attacks on the legislative branch of our Government? Would the appointment of our Federal judges for a period of 15 or 20 years, instead of for life, help in this matter? There are those who object to this, because it might remove one of our landmarks, for they believe the judges should hold office for life; and yet these very men claim that a Member of Congress should be elected for only two years because it might produce an autocracy.

I believe that the present unrest is largely due because of this inequality before our courts. Man is attempting to find a solution—a resolution born in the mind and heart, seeking equality and righteousness. There are those who appear alarmed and demand drastic legislation, permitting punishment for advocating changes of laws. There is no need of becoming hysterical, as neither our public schools nor the religion of our fathers taught the use of force to destroy our Government. But the people are demanding a change of conditions. The Constitution was framed by our fathers in their knowledge of governments, and it was impossible for them to reach perfection with the only light from governments then existing.

The Constitution provided that the legislatures of the several States should elect the Senators for six years, because they represented wealth, while the judges are appointed by the President for life. And, gentlemen, ever since there has been constant strife between the rights of property and individuals, but in every contest, thank God, man has triumphed over wealth. Look at our history, as evidenced by the decisions of our Supreme Court. The decision of McCulloch against Maryland, which held the national bank act of 1816 constitutional, was reversed by the people under the leadership of Andrew Jackson in 1830. The Dred Scott decision of 1856 brought on the Civil War, the fourteenth and fifteenth amendments to the Constitution, while the income-tax decision of 1895 brought on the sixteenth amendment to the Constitution. What the decision of the Standard Oil and Tobacco cases of 1911, permitting reasonable restraint by wealth, while it denied the same in the Danbury Hatters' case in 1908 and 1915, will bring about no one seems to know.

There is no doubt in my mind that the present unrest is the best sign of life and that we are to have a new birth. Education and religion demand progress. The feudal days are gone, never to return again. Just now we seem to be striking aimlessly and in every direction, and at times one becomes impatient and almost despairs. I believe that our sane solution is to have our judges appointed for a term of years and then let them return to the people, there to mingle as one of the crowd. A life term is entirely too long and makes autocrats of the best of us. Let us not lose our independence by failing to be dependent upon each other.

Strong minds have spoken on this. Mr. Roosevelt once made a speech advocating the recall of judicial opinions, but he soon admitted the fallacy of that. W. J. Bryan advocates the election of our judges, but since so few of our people come in contact with and know the members of the Supreme Court and circuit courts of appeal, comprising in most cases more than one State, that would make it impossible to select the best men and it would be impractical to provide election machinery.

NO APPROPRIATIONS FOR WATERWAYS.

However, Mr. Speaker and gentlemen of the House, I did not take the floor to discuss the labor features of this bill, and would not have done so had it not been for the argument of the gentleman from Pennsylvania [Mr. BURKE], who has just left the floor.

Mr. Speaker, I would like to call the attention of the chairman of this committee to one feature of this bill. The Federal Government had appropriated $6,336,000 for the construction of boats for the lower Mississippi. It appropriated $3,300,000 for the construction of boats on the upper Mississippi, and, in addition to this, they have 29 boats now under operation and under Government control, also some barges on the Erie Canal and Warrior River. Under section 201 this act transfers the operations of all boats to the Secretary of War, and authorizes him to complete the contracts and expend the balance of the $9,636,000, but it does not provide for the operation of the waterways. Five hundred million dollars have been appropriated in this act for the purpose of taking care of the railroads, but not one cent has been appropriated for the purpose of taking care of waterways. When March 1 comes around there is not one penny for the purpose of continuing the operation of the boats on the Mississippi, the Warrior River, or the Erie Canal.

Let us examine the language of this report. Subdivision (a) of section 201 of the report provides:

> On the termination of Federal control * * * all boats, barges, tugs, and other transportation facilities, on the inland, canal, and coastwise waterways * * * acquired by the United States * * * are transferred to the Secretary of War, who shall operate * * * such transportation facilities * * * and assume and carry out all contracts.

Subdivision (b) provides that—

> All payments after such transfer in connection with the construction, utilization, and operation of any such transportation facilities, whether completed or under construction, shall be made by the Secretary of War out of funds now or hereafter made available for that purpose.

Subdivision (c) provides that—

> The Secretary of War is hereby authorized, out of any moneys hereinafter made available therefor, to construct or contract for the construction of terminal facilities for the interchange of traffic between transportation facilities operated by him under this section—

And so forth.

Section 201, in part, provides:

For the purpose of making the payments specified in subdivision (a) of section 201, all unexpended balances in the revolving fund created by the Federal control act, etc., * * * are hereby reappropriated and made available until expended.

Thus you will note a beautiful legislative joker. If the person who drafted section 202 intended to operate these boats, as provided in subdivisions (b) and (c) of section 201, why did he omit these two subdivisions when it came to making the money available?

If the gentleman from Wisconsin wrote this section, it was an oversight, for I do not believe he ever knew how to serve two masters during his membership of 20 years in this House; but my guess is that some one else wrote this and some other sections of this report. It is plainly evident that whoever prepared this section believed that these boats and barges, valued at millions of dollars, should not be permitted to function. But, Mr. Speaker and gentlemen of the House, history again repeats itself. This is the first evidence that the railroads are going to play the same old game of cutthroat competition. After the Civil War one could clearly see the outlines of the Mississippi, Missouri, and Ohio Rivers by the line of smoke of hundreds of steamers carrying the commerce of our country, but the railroads procured most of these agencies of commerce and permitted them to rot along the banks of these wonderful rivers, capable of carrying so much commerce.

The report turns back the railroads and appropriates $500,000,000 for their use, and guarantees in addition an income of 5½ per cent on the value of their property and one-half of 1 per cent for improvements, but not one cent for waterways.

Selfishness will eventually ruin any nation and every business. The railroad interests are blind if they think that the people are not going to take a real active hand in this matter. The records of the Committee on Rivers and Harbors show that the Government has expended $203,062,537.93 to canalize and improve the Mississippi River, $23,828,149.69 on the Missouri, $160,467,695.23 to canalize the Ohio and its tributaries, making a total of $387,368,382.85 for these highways of commerce, to say nothing of millions spent on other rivers and harbors. I want to help build up our transportation systems, but we can not do it in this selfish manner. Early in the history of railroad transportation they thought to influence the State and county officers by issuing passes to those from whom they had occasion to ask favors. But public sentiment would not stand for this and other practices. The result was that the favors received by the railroads were few and far between, and transportation facilities were being crippled by our officers and those who exploited their resources, so that they were glad when the President took them over under Federal control.

Now, here we come into a new era when all realize that transportation is the lifeblood of a community, State, and Nation. The railroads in the past have been crippled by mismanagement, cutthroat competition, hostile legislation, and the issuance of watered stock. Each has had its inning; all received a knockout blow. The past is a dead issue, and we hope for a square deal. We must have these agencies and more of them. Water transportation never did injure rail transportation. We produce more than we consume. Our merchant marine, which cost us billions, must be maintained. Heavy bulky cargoes should be permitted to be hauled by water in order to relieve the railroads. The inland cities and communities have the right to have the cargoes delivered as near their door by boats and barges as possible. The people of New York State, who expended over $150,000,000 to rebuild the Erie Canal, have a right to use the same without interference on the part of the railroads. The Government reports show that the rail rates along waterways are 50 per cent less than the rate where there is no water competition. What has made the city of New York the largest city of the world but the Erie Canal and the fact that the railroads carry freight across this State for one-half of what they carry at other points?

Before the rebuilding of the Erie Canal freight was hauled from Chicago to New York by water for 7½ cents per hundred pounds, while the rail rate from New York to Lima, Ohio, is 25.2 cents per hundred pounds. Thus you will note why the railroads do not want water competition. In passing let me remind the man who is opposed to waterways, and cites the Erie Canal as an example, that since 1895 this canal has been under constant transformation. At that time they had over 500 boats carrying freight. Then the reconstruction period commenced. It was 6 feet deep and followed the natural depressions and streams; afterwards it was diverted along the hillside to avoid freshets, and finally they placed it back in the original bed and made it 9 feet deep, and then a fourth improvement came when it was made 12 feet deep, and the same is still uncompleted. If anyone tells you that little or no traffic is now on the Erie Canal, agree with him, but ask him how he expects any traffic while under construction. New York is an empire, and their people know how it came about. Inland cities can not compete unless they have cheaper transportation.

EFFECT OF PANAMA CANAL ON RAIL TRANSPORTATION.

Look at the effect the Panama Canal had on rail transportation. The records of the Interstate Commerce Commission show that soon after the opening of the canal a 40-cent rate was granted the Southern Pacific Co. between the Pacific and Atlantic terminals in order to compete with the water rate, making a reduction of from 10 to 45 cents per hundred pounds, depending on the commodity. But what happened to the Mississippi Valley? The rates, for instance, from north Pacific terminals to Lima, Toledo, and Cincinnati are as follows, per hundred pounds: Canned goods, 85 cents; steel and iron and paint, $1.80; canned salmon, 70 cents; and the rates from New York to these cities on the same commodities are: Twenty-five and two-tenth cents to Lima, 24.6 cents to Toledo, and 27.4 cents to Cincinnati. Thus you will note that to date the Panama Canal has not proven any benefit to the States not along the Atlantic or Pacific coasts. There seems only one hope to equalize this injustice to the States in the valley, and that is to procure a rate via New Orleans. Hearings were granted by the Railroad Administrator, upon the application of interested parties in the Mississippi Valley, on July 15, 1919, and the administrator granted shippers in Ohio, Indiana, and southern Michigan the same export rate via New Orleans as New York, effective December 31, 1919. Thus, if this rate is permitted to stand, all commerce from the Pacific States, the Orient, and South American Republics destined for the Mississippi Valley would go via New Orleans instead of New York. In this way the shipper in Ohio can procure practically the same rate from the Pacific States as the Atlantic Seaboard States. Is it any wonder the railways want to kill waterways? Should we of the Middle West sit idly by and permit all our cities and farm life to be stunted in growth because of lack of transportation? Gentlemen, this report should be recommitted and the waterways given at least half a chance.

ORDER OF DIRECTOR OF RAILROADS.

But, Mr. Speaker and gentlemen of the House, what else is going on? Protest was filed by the eastern railroads to this order of the Railroad Administrator, and already notice is being served on the Commerce Commission that as soon as the railroads go back to private ownership they expect to hog tie and deliver the people of these sovereign States to one port, and you are helping them by your vote to enact into law this conference report. The following correspondence, by and between the Railroad Administrator and Mr. Willard, acting for the eastern roads, may be of interest to shippers in the Mississippi Valley, and especially to Ohio, Indiana, and southern Michigan, to wit:

NOVEMBER 26, 1919.

Mr. WALKER D. HINES,
Director General of Railroads, Washington, D. C.

MY DEAR SIR: There has been brought to the attention of the railroad corporations in eastern territory the matter of an order issued by the Division of Traffic of the Federal Administration providing for the application of the same rates on traffic for export through the Gulf and other southern ports, from certain territory east of a line running north and south substantially through the center of Indiana, as are concurrently applied via New York, thus creating a condition which the interested corporations regard as inimical to their interests, and they accordingly desire this letter to be considered a protest against the action indicated.

The system carriers chiefly interested in the matter are the New York Central, Pennsylvania, Baltimore & Ohio, and Erie, with others largely so, and upon whose behalf this protest is written.

Among other things, the establishment of the rates referred to creates an entirely new situation or condition from any that has heretofore existed. To accomplish the purpose stated will require the movement of a considerable part of the business affected substantially double the distance that it is from a greater part of the territory involved to New York, Philadelphia, or Baltimore. It will work to "short haul" a number of the carriers upon whose lines the business originates and reduce their earning power accordingly. It will have the effect of introducing such an abnormal rate adjustment in the territory under consideration as to constitute a menace to the rate structure as a whole, fourth section violations being a prominent feature in the proposed adjustment.

It is, in the view of the corporations, a distinct departure from the principles enunciated in the fifteenth section of the interstate-commerce act, which provides that in establishing a through route—

"The commission shall not require any company without its consent to embrace in such route substantially less than the entire length of its railroad * * *."

The eastern carriers interested in this matter have not been given a hearing on the subject nor afforded an opportunity to state their objections.

In the event that a considerable volume of traffic should be diverted from the establishment of these rates it will have the effect of introducing an uneconomic burden upon the carriers, in that it will require the transportation of much of the business twice the distance that it would move through normal and well-established channels; that is to say, to New York, Philadelphia, and Baltimore, and thus make necessary a higher charge on other business to overcome this economic loss.

The interested railway corporations earnestly hope that their protest in this matter will be heeded and the proposed rates be not established.

Very truly, yours,

(Signed) D. WILLARD,
Chairman Presidents' Committee,
Official Classification Territory.

DECEMBER 8, 1919.

Mr. DANIEL WILLARD,
Chairman Presidents' Committee,
Official Classification Territory, Baltimore, Md.

MY DEAR MR. WILLARD: I have your letter of November 26 in regard to export rates recently published from central freight association territory to the South Atlantic and Gulf ports. These rates have been under consideration for nearly a year past. Numerous conferences have been held upon them. The publication is the last thing to be done. It was only after very thorough analysis and consideration that they were authorized. The basis is the same as is in effect to New York; Boston; Portland, Me.; Montreal, St. John, and Halifax, Canada. This same basis has been in effect from the same points of origin to New Orleans for many years past. It is practically extending the New Orleans rate to other Gulf ports and to South Atlantic ports south of Norfolk. Eastern railroads have no good grounds for objection on the basis of mileage as the distance to the Canadian ports is very considerably greater than to the South Atlantic or Gulf ports. The gross revenue will not be changed by the new adjustment, and the divisions of these rates will be fair and reasonable. If anything is thought to be out of line with the divisions after the roads are returned to private operation it can be readily adjusted by application to the Interstate Commerce Commission. You, I think, appreciate the difficulty at times in the past moving export freight through the ports of New York, Baltimore, and Philadelphia. The expense at those ports is constantly increasing. It is a question whether the cost to carriers for the further haul to South Atlantic or Gulf ports as compared to New York and Philadelphia is as great as if the traffic was hauled via the ports last mentioned. It is certainly in the best interest of the country as a whole to distribute the export traffic in a reasonable way among all ports, which is what we have in mind in this adjustment.

I believe these rate changes will make no serious reduction in the revenues of the central freight association carriers.

Yours, very truly,

WALKER D. HINES.

I want to submit the arguments advanced before the Railroad Administrator by persons interested in the commerce of the Mississippi Valley at the hearing to correct the revision of export rates of the United States Railroad Administration:

For many years the eastern trunk lines operating to North Atlantic ports from the States of Ohio, Michigan, Indiana, and that territory reached by their rails situated north of the Ohio River, have steadfastly refused as a whole to establish rates of freight on export traffic from the territory in question to South Atlantic and Gulf ports. This policy of the eastern trunk lines was obviously a selfish one designed to force the great movement of export traffic over their long haul to the North Atlantic ports and in this way avoid sharing the earnings accruing therefrom with the carriers operating south of the Ohio River to Gulf and South Atlantic ports. In these designs the eastern trunk lines have been very successful, as is substantiated by the records of the various ports which show the bulk of the exports from the Central West have moved through North Atlantic ports and have thus deflected from their natural channels which in a very large measure lie through Gulf and South Atlantic ports, particularly when the traffic is destined to South American, Central American, West Indies, Mexico, and the Orient.

The concentration of freight shipments for export at North Atlantic ports, and which as above explained are primarily due to the selfish policies of the eastern trunk lines in refusing to join the southern lines in the establishment and operation of freight rates to Gulf and South Atlantic ports in line with those prevailing to North Atlantic ports, has in turn forced the allocation at North Atlantic ports by the United States Shipping Board of hundreds of steamships, a large proportion of which would have been allocated to South Atlantic and Gulf ports were it not for the discrimination in rates in favor of North Atlantic ports, as is referred to. Moreover, this forced movement of export traffic through North Atlantic ports, particularly through the port of New York, subjects the Railroad Administration to a greatly increased cost of operation, due to the much higher terminal costs applying at New York as compared with terminal charges at southern ports.

The allocation of steamships to North Atlantic ports by the United States Shipping Board obviously imposes a greatly increased cost of operation of all said vessels as compared with what would be the cost of operating from southern ports, as consideration of the following statement of distances from various southern ports to certain Latin American ports, as compared with the distances to the same ports from the port of New York, will illustrate:

Distances in nautical miles from and to various ports and the percentage of difference in distances from the various ports as compared with New York.

To—	New York.	Charleston.		Mobile.		New Orleans.	
	Distance.	Distance.	Per cent.[1]	Distance.	Per cent.[1]	Distance.	Per cent.[1]
	Miles.	*Miles.*		*Miles.*		*Miles.*	
Habana	1,186	646	45.5	553	53.4	603	40.1
Kingston	1,474	1,064	27.8	1,107	24.9	1,135	23
Vera Cruz	2,017	1,455	27.9	825	59.1	789	60.9
Colon	1,974	1,564	20.8	1,371	30.5	1,390	29.6
Valparaiso	4,633	4,223	8.8	4,030	13	4,058	12.4

[1] Percentage of distance less than New York.

The above distances taken from "Table of Distances Between Ports," published by the Hydrographic Office under the authority of the Secretary of the Navy. (N. O. No. 117.)

It must be conceded, therefore, that the enforced allocation to and operation from North Atlantic ports to Latin American countries of hundreds of Shipping Board vessels, instead of the allocation to and operation of a large percentage of such vessels from southern short-haul ports, not only serves to multiply the cost of operation of our governmentally owned merchant marine but also imposes the maximum transportation cost on American products coming into competition with British and Japanese products, which latter enjoy as a whole the economies accruing from all-water transportation and are not imposed with inland rail transportation costs, as is the case with American products shipped from Ohio, Indiana, Illinois, and the Mississippi Valley and Southern States generally.

Therefore these discriminations in inland rates have made it impossible to—

First. Establish steamship lines from Gulf and South Atlantic ports to various countries of the world, particularly to Latin America.

Second. Have retarded the upbuilding of the Gulf and South Atlantic ports' facilities as a whole in that the volume of export and import traffic moving through these parts in many instances requires but a part of their present facilities to handle same; that is to say, that the port facilities of the South Atlantic and Gulf ports as a whole are used for the handling of export and import traffic to but a fraction of their present capacity.

Third. Has made it necessary to route a large volume of southern products for export via North Atlantic ports, by reason of the inadequate sailings and service from southern ports, which sailings and service, as above explained, would be automatically established were the inland adjustment of rates to southern ports from Central Western territory on a parity with inland rates from the same territory to North Atlantic ports.

Fourth. Has greatly increased the cost of operating the Government-owned merchant marine and thereby has added to the cost of American products competing with British and Japanese products.

It is obvious from this brief outline that the failure to establish rail rates to Gulf and South Atlantic ports from the Central Western section of the country in line with those rates existing to North Atlantic ports has not only retarded the development of southern ports but has deprived the Southern States of the steamship trade routes which would naturally follow the flow of a heavy volume of export freight from the Central Western section through those ports if the transportation charges thereon were on a parity with those applying to the North Atlantic ports and which in turn would permit of the operation of governmentally owned boats at minimum costs, thus bringing about the lowering of through transportation costs to many American manufacturers, a very desirable and necessary policy if American products are to successfully compete with British and Japanese products.

Not only have the Southern States and Mississippi Valley suffered economically from the discrimination against southern ports in rail rates, they have also suffered economically from the system of rates operated by the United States Shipping Board from North Atlantic ports versus Gulf and South Atlantic ports, the injustice in this respect being illustrated by the following example: The rates from South Atlantic and Gulf ports to Habana, Cuba, are the same as they are from New York and Boston, notwithstanding that the distance from the South Atlantic and Gulf ports are many hundreds of miles less than from New York, as the distances before enumerated show, and it can be proven that the actual cost of operating a vessel in one case is about half what it is in the other.

On the other hand, the rates from South Atlantic ports to European ports, where the distance is a small percentage greater than the distance from the North Atlantic ports, measured by the total distance involved, are very much higher than the rates from the North Atlantic ports to the same destinations. The Shipping Board has partly recognized the injustice of this latter basis by establishing on coal from Charleston, S. C., to European ports the same rates as apply from Hampton Roads and New York, and there should be no reason why they could not in the same manner accord the South Atlantic and Gulf ports a fair difference under the North Atlantic ports when it can be shown that the operating costs fully justify a difference.

Therefore, from the description of the existant situation, it is apparent that the United States Railroad Administration should establish rates from the Central West, including western Pennsylvania, Ohio, Indiana, Michigan, Illinois, Iowa, Minnesota, etc., on export traffic identical with the rates applying from the same points to North Atlantic ports, and should require the lines north of the Ohio River to divide these rates on an equitable basis with the lines south of the Ohio River. The United States Railroad Administration has already set a precedent for the equalization of the North Atlantic port rates via the South Atlantic and Gulf ports by their action in requiring the lines serving Ohio, Indiana, Michigan, Pennsylvania, Illinois, Iowa, Minnesota, etc., to publish export rates to Pacific coast ports which, in effect, on oriental traffic, Australian traffic, etc., equalize the through rates to these countries via North Atlantic ports; therefore no question of new policies on the part of the Railroad Administration is involved in this demand. The Railroad Administration are not called upon to reduce their revenues, because the same rates will apply to Gulf and South Atlantic ports as apply to North Atlantic ports, and the earnings to the Railroad Administration on the whole will be precisely the same. The proposition merely calls for the establishment of rates which will permit export traffic to flow through all our ports instead of continuing to foster an artificial means of forcing the traffic through North Atlantic ports, which practice has been so disastrous during the war.

There is another great problem in which the South is vitally interested and which the equalization of export rates as proposed will greatly alleviate, namely, that the South will be supplied with a sufficient number of cars to handle its products, which in quantity are shipping North, East, and West at the rate of about three cars to every one car received in the reverse direction. In the past hundreds of industries have been forced to close down because of the inability of the carriers to furnish them with cars, which would not have been the case if export traffic could have moved through the southern ports, in this way bringing into the South the necessary equipment to handle its heavy domestic shipments to the North, East, and West.

The fight will be on as soon as the bill becomes a law, and the shippers of the Mississippi Valley might just as well tighten their belts and buckle their armor, for if this order is vacated it will again work to their disadvantage. We must have these new and modern barges and steamers, constructed during the war, carry the commerce upon the greatest natural highways of commerce. Then we will again know the outline of the

Mississippi and its tributaries by the smoke produced from these agencies of commerce. The rate from Cincinnati to Toledo on coal is $1.50 per ton. Why not permit the barges, loaded at the mines, to continue their journey north without unloading and loading this coal at Cincinnati and Toledo?

Mr. Speaker and gentlemen of the House, 35 per cent of our export commerce before the war went via New Orleans. We had three canals in operation connecting the Ohio River with Lake Erie. They cost the Federal Government about $16,000,000. But because of the Civil War and the selfishness of the railroads these canals are now abandoned. But we hear a new voice calling from Ohio. The General Assembly of that State has passed an act creating canal districts, 25 miles wide on each side of the canals, permitting the people in these districts to vote whether they want to improve these canals, agreeing to build modern terminals if the canals are rebuilt, the cost to be borne according to benefit received. The property 25 miles away would pay a small proportion compared with the property where the terminals are located. Thus they realize that it is economy to pay a small amount if they can save a dollar on each ton of coal. Ohio, no doubt, will amend its constitution just as Illinois has, in order to help rebuild these canals, for there is not a taxpayer who would not be benefited by this cheaper transportation. And, gentlemen, the entire Mississippi Valley has had this new vision. The people of Illinois voted $20,000,000 to build a barge canal connecting Lake Michigan with the waters of the Gulf. This is not all. They realized that the valley possesses over 50 per cent of the population. The dry bones have taken on new life, the flesh is being formed, and these people will demand a righteous solution of this transportation problem, with no more discrimination in favor of the Eastern and Western States.

According to best reports the people in the Mississippi Valley do not only possess over 50 per cent of the voting population, but the region lying in the watershed of the valley and between Canada and the Gulf now produces 76 per cent of the wheat, 66 per cent of the bituminous coal, 47 per cent of the lumber, 70 per cent of the cotton, 55 per cent of the wool, 69 per cent of the petroleum, 94 per cent of the iron ore, 85 per cent of the corn, 81 per cent of the hogs, 52 per cent of the sheep, and 74 per cent of the cattle.

Why should not most of this export go down grade through the port of New Orleans instead of over the mountains to the east and west of this great valley? Thus you would not have your port closed during a portion of the winter season because of ice. Let us relieve this congestion by permitting commerce to take its natural course. Thousands of dollars of the products of our valley are being wasted because of the congestion at the port of New York, and thousands of cars are being used for storage and often banked up at Pittsburgh for want of an outlet.

GUARANTEES INCOME TO RAILROADS.

It is easy to see why the railroads received so much and the waterways were entirely forgotten when the framers of the bill came to open the door of the United States Treasury. The railroad operators and their security holders have been busy in the matter of propaganda, while few seemed interested in the waterways, because it meant no personal return to them.

This propaganda on the part of the railroads and security holders was most mischievous. They would have you believe that if we do not pass this legislation before March 1 the railroads would become bankrupt and those of us who would not support this bill were for the so-called Plumb plan. The fact is that the President issued the order for the return of the railroads to their owners on March 1, and I was glad to hear the chairman say that they would go back with or without legislation. Personally I would like to support this measure, for I am interested in the solution of our transportation problems and believe that with proper coordination we can build up a wonderful domestic and foreign commerce; but I am going to vote to recommit this report, with a hope of permitting the committee to make the necessary corrections. That the railroads would become bankrupt is the idle talk of those who do not know. The Interstate Commerce Commission is empowered under existing laws to place in effect the same rate they now enjoy.

But can you and I support this bill and defend the same? Let us further examine and see who wrote some of the other features of the bill. Subdivision 3 of section 422 provides that—

The commission shall from time to time determine and make public what percentage of such aggregate property value constitutes a fair return thereon * * * and shall take as such fair return a sum equal to 5½ per cent of such aggregate value, but may, in its discretion, add thereto a sum not exceeding one-half of 1 per cent of such aggregate value to make provision in whole or in part for improvements. * * *

It seems to me that if we are going to guarantee an income of 6 per cent to the railroads, then we should be ready to make an equal guarantee of income to the farmer, merchant, and manufacturer. Why not guarantee an income to the barber when he opens his shop or to those who raise chickens, assuring them an egg every time the hen cackles?

But the advocates of this report answer us that the courts have already decreed that rates which would yield an income of 6 per cent are "just and reasonable." If that is true, why make it a permanent law? The time may come when cost will be less and a net income of less than 6 per cent would be "just and reasonble." It may not seem high now with money as cheap as it is, but how can we expect a reduction in the cost of living when Congress votes into law a hard-and-fast income of 6 per cent over all expenses for the railroads? Think what a fruitful field we open if only the employer of labor and the employee can get together by raising salaries and wages, for the owners of the stock of these railroads need not be alarmed, for they are assured by law of their income of 5½ per cent and know that one-half of 1 per cent is always going back for the protection of the property.

Take, for instance, the Pennsylvania Railroad system. It had for the year 1917 a president at a salary of $75,460 and 11 vice presidents with salaries ranging from $20,000 to $40,620 and has 12 other officers whose salaries are over $20,000 per year, making a grand total for all these 23 officers of $681,960, almost twice as much as the combined salaries of the President of the United States, 10 Cabinet officers, 9 justices of the Supreme Court, the Vice President, and the Speaker of the House. What will hinder these officers from doubling their salaries? The stockholder will not complain, for he is assured his income. The only person who has reason to complain is the shipper, and he is never considered until called upon to pay.

Well, we are told that the railroads are costing the Government $39,000,000 per month, and the sooner we let go the better, and that the rates could not be raised before September 1, 1920. So it is, but your report guarantees 6 per cent income, and if there is a deficiency payment will be made out of the Treasury of the United States. Six months to September 1 would mean that we pay these roads two hundred and thirty-four millions more. But you say that Government ownership is more expensive than private ownership. Do not forget that when the President took over the railroads all employees continued to draw pay, from the president of the road on down to the man who received the least. If public ownership opens the door to inefficiency, dishonesty, and graft, you are not closing it by this bill. And while passing I want it distinctly understood that I am not for the so-called Plumb plan unless we can treat other property on the same basis. For instance, those who advocate the Plumb plan should also be willing to buy and pay for out of the Public Treasury every farm, every business and manufacturing plant, and turn them back to their original owners for operation. This may work under soviet rule in Russia, but never in America. All I desire is to help whip this report into shape so we need not hang our heads in shame because we voted for it.

Have any of you considered what the effect of this legislation will be on railroad stock? I have never purchased a share in my life, but now I think anyone can safely purchase without taking any chances. Here are a few quotations taken during the first week of this month, showing the sale of stock as quoted in one of our dailies:

	Cents.
Ann Arbor	11½
Rock Island	25¼
Denver & Rio Grande	7½
Denver & Rio Grande (preferred)	10¼
Erie	12
Kansas City Southern	15
Minneapolis & St. Louis	11¼
Pennsylvania R. R	41⅛
Northern Pacific	23½

A few days ago the Chicago & Alton was quoted as low as 6 cents. One year's dividend would buy the whole road! Oh, but you say that the 6 per cent guaranty is not based on the capital stock, because about eight billions of the railroad stock is watered. Do not forget that every one of those interested claim that the railroads are valued at more than the outstanding stock issued.

Another provision which smacks of the communists' philosophy and comes dangerously near violating the Constitution of our country is found in subdivision 6 of section 422, in the following language:

If under the provisions of this section any carrier receives for any year a net railway operating income in excess of 6 per cent of the value of the railway property held for and used by it in the service of transportation, one-half of such excess shall be placed in a reserve fund

established and maintained by such carrier, and the remaining one-half thereof shall * * * be recoverable by and paid to the commission for the purpose of establishing and maintaining a general railroad contingent fund as hereinafter described.

No such provision could have been conceived by the brain of man since the beginning of time save and except in this period of world unrest. If this is sound legislation, it is equally sound in the mercantile, industrial, and agricultural business. It does not only destroy every initiative but penalizes efficiency. It does not only open the opportunity to indifferences but dishonesty as well. We hear much condemnation of the cost-plus contracts during the war, and yet we repeat in time of peace and make it possible to increase salaries, wages, pay exorbitant prices on contracts to the favored few in order to dissipate the earnings of the company. This is what we, in these modern days, call taking property by "due process of law." Shades of our fathers, what next will come out of Washington!

We have heard arguments for and against the constitutionality of this law. I do not care to argue the constitutional question. The courts may claim that Congress can take all earnings over 6 per cent from one person and make him divide with his neighbor who is not so successful, but I have my very grave doubts. It seems so strange that the very fellows who have been loudest in denouncing socialism now ask permission to crawl under its wings. This fact might make it constitutional. I do not know. I may be a little old-fashioned in my beliefs, but I do love those ancient landmarks upon which this Republic was founded.

The history of this legislation shows the need of reform. The bill as passed in the House was never considered in the Senate, but there they struck out everything after the enacting clause and substituted the so-called Cummins bill, which in turn was rejected by the House, and as a result the conferees present a new bill which can not be amended, but must be either accepted or rejected as a whole. Of course it may not become a new Member to criticize when the chairman of the committee and the ranking Democrat have been Members of this House for 20 years and some other leaders have been here for more than a quarter of a century.

FIXES WAGE BY LEGISLATION.

These, Mr. Speaker, are the most serious objections to this report, but before closing let me call the attention of the House to but one more objectionable feature in this report. Then I shall not burden its membership any longer. Section 312 of the report fixes the wages of every employee until September 1, 1920. This may be innocent, but it is establishing a very bad precedent. The matter of wage should be left to the employer and employee for adjustment. We have provided a machinery to bring the employer and employee together. Then why not trust the very agency you create in this bill? The railroad men are all intelligent and possess a fine American spirit, and I believe that we can trust to them the wage solution. This all seems to surpass the comic opera. We pay, for instance, the heads of one of our railroads twice as much as we pay the heads of our executive, judicial, and legislative branches of our Government, and still refuse them permission to exercise any discretion. For instance, we tell the Commerce Commission that 6 per cent is a "just and reasonable rate"; the railroads can not charge what they choose for their service nor will we permit the railroads to determine what traffic they will handle for transportation. The law tells these high-salaried officers just what equipment they must have to furnish all manner of safety devices for the employees and the public. The Adamson law determines the hour of wage, and now this bill determines the wages officers of the various roads must pay every employee. I wonder why the conferees did not also fix the salary of the officers? Why should the public be compelled to pay these enormous salaries to these seeming supernumeraries? If they have anything to do under the law and this bill but make out the pay rolls and campaign to induce the Commerce Commission to increase the rate to the public after September 1, 1920, I would be pleased to be informed. I failed to see it.

Aside from these features, Mr. Speaker, the conference report shows some wisdom, and I hope that it may be recommitted with a view of permitting these corrections, so that I may join in the support of the bill. [Applause.]

The SPEAKER pro tempore. The time of the gentleman from Ohio has expired.

Mr. WELTY. Mr. Speaker, I ask unanimous consent to revise and extend my remarks.

The SPEAKER pro tempore. That privilege has been granted already by order of the House.

Mr. SIMS. Mr. Speaker, I yield to the gentleman from New York [Mr. GRIFFIN].

Mr. GRIFFIN. Mr. Speaker, there seems to be a widely prevalent notion that some act of Congress is absolutely essential in order to turn the railroads back to private control. In various resolutions and petitions—most of them undoubtedly inspired by railroad interests or friends of railroad corporations—I find the notion crystallized in the form of an appeal to "speedily report—or pass—a bill restoring the railroads to their owners."

NO ACT OF CONGRESS NECESSARY.

I therefore desire to emphasize the fact that no action by Congress of any kind whatever is at all essential to enable the railroads to be returned to their original proprietors. They passed under Government control by virtue of the President's proclamation of December 26, 1917, and they will go back as a matter of course March 1, 1920, by virtue of like authority.

The taking possession and control of all transportation systems was done pursuant to section 1 of the act of August 29, 1916, empowering the President in time of war to assume this extraordinary authority. His proclamation was dated December 26, 1917, to go into effect on December 28, 1917, but for the purpose of accounting, the Government control began at midnight on December 31, 1917.

It is worth noting that the Government had exercised control over the railroads for nearly three months when, on March 21, 1918, the so-called Federal-control act went into effect. By section 14 of that act it was provided that the "President may relinquish all railroads and systems of transportation under Federal control at any time he shall deem such action needful or desirable."

Acting in accordance with this authority, the President issued his proclamation, dated December 24, 1919, announcing that on March 1, 1920, the railroads and systems of transportation under Federal control would be returned to private ownership. I confess that I am not one of those who believe that this is the proper time to relinquish control of the railroads. I believe it would be better to retain them under Federal supervision until some carefully matured plan is agreed upon, after careful study and deliberation, for the settlement and adjustment of the problems arising out of Government control. But whatever the opinion of individuals may be, the railroads go back to private ownership on March 1, 1920, and this bill is not at all necessary to effect that purpose.

THE FEDERAL-CONTROL ACT FAIR TO CARRIERS.

I am afraid that the scope and extent of the Federal-control act are not well understood. It provided for compensation to the carriers equivalent to their average annual railway operating income for the three years ending June 30, 1917, and where, due to a receivership or other abnormal conditions, the operating income would not furnish a fair measure of just compensation, the President was authorized "to make with the carrier such agreement for such amount as just compensation as under the circumstances of the particular case he shall find just." Under section 6 of the act a revolving fund of $500,000,000 was created to pay the expenses of Federal control and to provide terminals, motive power, cars, and other necessary equipment. Later Congress appropriated $750,000,000 more for this purpose. Nearly all of this billion and a quarter has been expended for betterments. The Government has laid out for roadways and structures $780,405,512, and for cars and locomotives $372,000,000. What basis, then, is there for the plaint that the Government proposes to turn back the railroads depreciated and run down without making proper compensation to the owners? The fact is that the Government is turning over the railroads to their owners in better condition than it received them. So you will observe that so far as doing justice to the owners of the railroads is concerned, this original Federal-control act is fully as fair and just to the carriers as the bill before us. Even while this bill is being debated here to-day Members are bombarded with telegrams from banks and trust companies urging its passage and intimating that great uncertainty will prevail and serious damage be done to the stockholders if this bill does not became a law. This I deny. It may be that additional legislation may be necessary, and I will even agree that it will be necessary, in order to meet the problems and conditions resulting from Federal control. And I will go further and say that if this bill were confined wholly to the solution or alleviation of those conditions I would give it most earnest support. However, the bill before us is not confined solely to railroad problems immediately arising out of Federal control, but covers the whole range of transportation, rail and waterway, and drags in by the neck the labor question, which has no place in such a bill. Let us examine the scope of this bill.

SCOPE OF THE BILL.

The bill is 121 pages long. Twenty-one pages are devoted to the matter of compensation of the railroads, a plan for reimbursement of deficits during Federal control, the handling of causes of action arising out of Federal control, and the refunding of car-

riers' indebtedness to the United States. Thirteen pages are devoted to provisions aimed to guarantee to the railroads an income on their investment and further favoring them by the establishment of another revolving fund amounting to $300,000,000, out of which loans are to be made to railroads in distress. The wisdom of these provisions is very much doubted. They have inspired the bitterest protests on this floor. Men who rail against Government ownership seem to see no inconsistency in this extension of the principle of paternalism to railroad corporations. I am wondering if they would be equally indulgent in the matter of making loans to mechanics to build their own homes. Next come the labor provisions, containing 14 pages. They embody a system of railway boards for the adjustment of disputes between the railroads and their employees and involve principles and methods of settlement which are bound to lead to endless controversy. This is one part of the pending bill that ought to have been given more deliberate consideration. The balance of the bill, embracing 73 pages, is devoted to sundry amendments to the interstate commerce act, some good and some bad, but all of which might very well have been left for later consideration after the main problems incidental to the return of the railroads to private control were out of the way. But I am not so much concerned about the details of this bill as I am with the reflection that it is utterly unnecessary.

While nominally its title is "An act to provide for the termination of the railroads and the systems of transportation," it is confessed in the first section that it is "a transportation act."

ITS EFFECT.

If this bill becomes a law it will most assuredly accentuate and redouble the demand for Government ownership. The people will soon grow tired of seeing special interests specially favored and taxpayers in general will begin to ask why taxes are collected out of their hard-earned income to be set aside in revolving funds to loan to railroad corporations. Already the farmers are up in arms. The Corn Belt Meat Producers' Association, the Farmers' Grain Dealers Association of Minnesota, and the Illinois Farmers' Grain Dealers Association have passed the following ironical but very significant resolutions:

Resolved, That we ask our representatives in Congress to immediately enact legislation dividing the country into farm zones or districts, and guaranteeing to the farmers, in the aggregate, in each zone or district for a period of two years from the effective date of the legislation a net return of 5½ per cent profit, plus ½ per cent for new fences and barns; and that the said total of 6 per cent shall be above all taxes and above all cost of labor and supplies; and it shall be computed on the present cost of reproduction of the farms in said zones or districts in their present condition. Further, be it

Resolved, That as an incident to the foregoing guaranty, that Congress shall also be requested to guarantee (1) that we won't have a drought this summer, (2) that our sows will bring forth of their kind bountifully and plentifully, and (3) that our eggs will hatch, our hens will cackle, and our roosters will crow.

FEDERAL CONTROL INVOLVED NO MATERIAL CHANGE OF MANAGEMENT.

The popular view is that when the Government assumed the control of the railroads the proceeding involved a complete change of personnel and an entire change in system and methods of operation. As a matter of fact, there was no material change of personnel. The roads were run by the same managers, superintendents, yardmasters, telegraph operators, signalmen, locomotive engineers, foremen, and trackwalkers. There was no material change in the office force. It was like turning over the pages of a book and writing a new page with the legend "Subject hereafter to orders of the United States Government."

From thence onward the Government control was confined chiefly to consolidation of lines, arrangement of time schedules, and the distribution of cars for the handling of the Nation's business.

Many people during the war and since doubtless noticed things to find fault with. Cars were unclean and frequently there were delays in traffic. At times these abuses became so persistent as to lead many to express the opinion that the old managers who were kept in control under Government management were not overanxious to help the thought that Government control might be efficient. In any event there has been a zealous propaganda conducted in order to encourage discontent with Government management. However that may be, the railroads will go back to private ownership on March 1, whether this act passes or not.

GOVERNMENT OWNERSHIP NOT NOW THE ISSUE.

The question of the attitude of the Members here on Government ownership is of no moment. Personally I do not mind saying that sooner or later we must come to Government ownership if we are to avoid the evils of class ownership.

If the Government would operate the great public utilities the clamor of the workers for class ownership would subside.

The workers justify their demand by the contention that at the present time the railroads are owned and operated by and for the benefit of special classes, and they set up a claim to a joint share in the plunder.

The unfortunate thing about these conflicts is that the great middle class of consumers is forgotten. As a matter of fact, the railroads should be owned or controlled by neither capital or worker but by the entire people.

I think if we had to meet the problem of railroad transportation against the most we would attempt to do would be to lease the land and grant a concession to operate the railroads.

The origin of the great railroads and their early history make one of the most scandalous pages in our annals. The reputation of the railroads for fair play and honest dealing has always stood at a low ebb. In 1917 40 per cent of the operating railroads in the United States paid no dividends whatever to their stockholders. It was long a maxim current in Wall Street that every railroad had to fail and go into the hands of a receiver three times before it became a success. Figuratively the country is strewn with the bones of investors who ventured into the treacherous sands of railway speculation.

Mr. SIMS. Mr. Speaker, does the gentleman from Indiana wish to use more time now?

Mr. SANDERS of Indiana. No. [Cries of "Vote!"]

Mr. SIMS. Mr. Speaker, I yield to the gentleman from New York [Mr. MEAD] five minutes.

The SPEAKER pro tempore. The gentleman from New York is recognized for five minutes.

Mr. MEAD. Mr. Speaker, I am opposed to the conference report on the Cummins and Esch bills and shall vote to recommit it. I honestly believe it is a poor attempt to solve a great national problem, and favor the suggestions made by the Director General of Railroads, as well as Interstate Commerce Commissioner Woolley and others, that the Government retain control of the railroads for a period of two years, thereby giving them a fair peace-time test and affording Congress and the American people ample time to consider and enact legislation that will permanently settle this most difficult task.

The passage of this bill drives labor and capital further apart, for it contains a labor section which is tantamount to compulsory servitude.

It perpetrates a grave injustice upon the people of the United States, for by its provisions rates will be increased and an unprecedented subsidy established, which means a departure from the real principles of American competition.

A continuance of Government control can not in any way injure the prosperity of the Nation. On the other hand, the passage of this measure at this particular time will further increase the cost of living, for when you raise freight rates from 25 to 40 per cent you add at least one billion to the charges paid by shippers and several billions in added costs to the public at large. At this period of our country's history our paramount duty is to reduce the cost of living, not to increase it; to allay the existing unrest, not to stimulate it; to zealously guard against extravagance, not to throw open the doors of the people's Treasury, guaranteeing the earnings of a select class. If this bill becomes a law, it will be listed, in my estimation, as one of the greatest blunders in the history of the American Congress.

Of course, the President has ordered the roads back to their private owners, but that should not be used as a means of passing a bill granting special privileges to the railroad stockholders and inflicting industrial slavery on 2,000,000 of railroad workers.

Even though this bill be recommitted, it can be reported again and passed by Congress in time to provide for the operation of the roads as per the President's order, and while I think the best solution at this time is the continuation of Government control, yet if Congress wants to treat labor and the consumers generally as American citizens should be treated this bill can be amended without serious delay.

The proponents of this legislation would have us believe that the farmers are in favor of it, but this letter will refute that statement:

GENTLEMEN OF THE CONGRESS: On behalf of the 750,000 members of the farmers' organizations united in the Farmers' National Council to carry out their reconstruction program, I most earnestly request you to defeat the pending conference railroad bill.

Nearly every national farm organization of any size, regardless of its position on the return of the railroads, has opposed the Government guarantee of dividends or Government subsidy, which is specifically provided in section 15a (3) of this railroad bill, wherein the Interstate Commerce Commission is instructed to fix rates which will yield 5½ per cent on the aggregate value of the railroads and permitted to add not to exceed one-half of 1 per cent of such aggregate value.

May I repeat that the overwhelming majority of the organized farmers of America, and, in my judgment, of the unorganized farmers, are opposed to the return of the roads under the pending bill, and I express the hope that you will oppose such legislation and work for the two-year extension of Government operation, so that a plan fair to all the interests involved may be worked out for the final disposal of the railroads.

Yours, sincerely,

THE FARMERS' NATIONAL COUNCIL,
GEORGE P. HAMPTON,
Managing Director.

FEBRUARY 20, 1920.

The following extract from a statement by Judge George A. Anderson, formerly member of the Interstate Commerce Commission, explains very clearly why the railroad employees have but little faith in getting a square deal from the private owners, who operate the roads for profit only, especially when they are forced to relinquish the right to settle their disputes in a voluntary manner and forced arbitration is substituted:

[By Judge Anderson.]

Not only were railroad wages unconscionably low before the Government took over the railroads, but the ghastly burden of industrial accidents was until a few years ago left to rest almost entirely upon labor. The compensation acts, enacted against violent opposition by most of the railroads, have now to some degree ameliorated the fate of the victims of our numerous railroad-employee accidents. But the fellow-servant doctrine, the assumption of risk doctrine, the contributory negligence doctrine, all had their origin or greatest operation in the field of railroad-employee accidents. Broadly speaking, the old railroad management treated labor as a commodity to be bought in the lowest market and junked when shattered in service.

Labor has, and has reason to have, no confidence in getting a square deal if the railroads are returned to corporations operating them for private profit and dominated by the financial cliques that have of recent years controlled our great railroad systems. For that matter, neither have the security holders. Labor is embittered by generations of ill treatment and exploitation. The representatives of labor say, and with substantial truth, that the forces which, until December 26, 1917, dominated our transportation industry are representative neither of the rights of the millions of human beings who have done the essential transportation work nor of the rights of the other millions who have furnished the money to pay for the transportation facilities.

The great mass of American railroad workers are patriotic, loyal, and devoted citizens of this great and free Republic.

In defense of American rights as freemen they fought, bled, and died in the great World War; and as freemen they will never willingly allow those rights to be taken from them.

They neither seek nor do they want to be treated as a special class, but they do expect just and fair treatment, as well as the right to a voice and a vote in any board or court which we might create by law which by its decisions decides the compensation they are to receive, as well as the conditions under which they serve. Under the provisions of this act the workers are granted little or no voice in adjusting wage or service matters. And as one who believes in justice to all concerned, it is our duty in turning the roads back to see to it that labor is free—at least as free as it was when the Government took over control. If legislation setting up wage boards is to be written into this bill, a workable means should be adopted insuring to every worker a fair and square adjustment of the conditions and wages under which he must work.

The SPEAKER pro tempore. The time of the gentleman from New York has expired.

Mr. SIMS. Mr. Speaker, I promised to yield time to several gentlemen who happen to be out of the Hall at the present moment, so I will take the floor temporarily. I do not mean that this shall be the closing speech on my part, although I intended to close on our side and may do it yet, but is in the nature of a reply more than anything else to some of the statements and arguments presented by the distinguished chairman of the Committee on Interstate and Foreign Commerce, the gentleman from Wisconsin [Mr. ESCH], for whom no man in the House entertains a higher regard than I do. [Applause.]

Let us review the labor legislation in this bill. A subcommittee of the House Committee on Interstate and Foreign Commerce, without any suggestion from anybody, so far as I know, got up what it thought was the best labor provision that could be offered to prevent strikes. What was the fundamental principle of the provision that we reported to the House? It was to have adjustment boards of equal membership chosen by the parties to the dispute, by the labor organizations and by the carriers or carrier representatives, and in case of failure to reach an agreement there was an appeal board established consisting of nine members, three to be appointed by the President upon the nomination of the railroads, three to be appointed by the President upon the nomination of the employees, and three to be appointed by the President from the public. It was provided that the three appointed on behalf of the public were to have no voting power at all, so that the determinations of the board had to be practically unanimous-consent agreements by the representatives of employers and employees. Five of the six appointed on behalf of the employers and employees had to agree in order that the agreement be binding. The public representatives had no vote and no other power except to reflect public opinion. Their function was purely advisory.

That was the provision of the bill that the House committee brought in, on the preparation of which our distinguished friend, the chairman of the committee [Mr. ESCH], put in many hours and many days of hard work. Upon the subcommittee was also Mr. WINSLOW, who has been a large employer of labor himself; Mr. HAMILTON, of Michigan, who has been a Member of the House as long as I have, which has been so long that I try to forget it when I am a candidate for reelection, for fear some one will say "long enough"; the gentleman from Kentucky [Mr. BARKLEY]; and myself. The fundamental idea of that provision was that a labor adjustment is an agreement freely entered into by both sides, or if not that it will not work. The way to prevent strikes is to prevent that which brings them about, either actual or alleged, and everybody knows that with that kind of a board the responsibility would be upon both sides to come to an agreement, to reach an adjustment that would be satisfactory to both sides.

When that bill came to this House and was considered in the Committee of the Whole an amendment was offered by the gentleman from Minnesota [Mr. ANDERSON], which was adopted in the Committee of the Whole. I stood by the report of the Committee on Interstate and Foreign Commerce in Committee of the Whole, but after the amendment carried in the Committee of the Whole somebody demanded a separate vote in the House, which, of course, was granted. There were only 40 or 50 majority in the Committee of the Whole for the Anderson amendment, but upon a yea-and-nay vote in the House the Members to the extent of 252 against 112 gave their judgment in favor of the amendment of Mr. ANDERSON in preference to the provision brought in by the subcommittee and the full Committee on Interstate and Foreign Commerce.

Now, this was a yea-and-nay vote, which I regarded as a most solemn instruction to the conferees not to depart from the principles involved in both propositions without first bringing the bill back to the House. But the Senate bill carried an antistrike provision, enforceable by criminal penalties.

Finally the Senate conferees yielded on the criminal-penalty provision. The conferees tentatively agreed that there should be five adjustment boards, composed of equal representatives of the parties to the dispute, and an appeal board, composed of five members, three representing the public and one each representing the employers and the employees. Three of the appeal board constituted a quorum and decided all questions coming before the appeal board. But this tentative agreement was replaced by the provisions now in this conference report, which give to the three public representatives the absolute power to prevent any agreement made by the parties to the dispute becoming effective without at least one of them agreeing with the parties to the controversy.

That brought in a new principle, contrary to the bill reported to the House by the House committee and contrary to the Anderson amendment that the House had adopted by more than a two-thirds vote. I said, "I can not agree to this provision," although I felt it was better than the tentative agreement or the antistrike provisions of the Senate bill.

What have we now? It is so arranged that even one member of the three representing the public can veto an absolutely unanimous agreement of all the parties to the controversy. An adjustment is the coming to a working agreement by which those who employ and those who are employed may work together in harmonious cooperation and not bring on a test trial of force, one the force of the invested dollar and the other the force of the human machine. The bill provides that at least one of the public group must agree to any decision before it is binding. Now, if we had carried that principle further and had said that no decision should be binding unless one of each group agreed to it, it would have looked like we intended to be fair. But all the representatives of the public have to do to prevent a harmonious, unanimous agreement becoming effective is to do nothing, and thereby put a pocket veto upon everything agreed to by the representatives of the two groups who must work harmoniously together if strikes are to be avoided.

The present bill provides for voluntary boards for the adjustment of grievances and working conditions, but not wages. It further provides that the labor board, upon its own initiative, may suspend anything that the voluntary boards agree to. It may vacate it, amend it, or ignore it, and in case it is of the opinion that the agreement would substantially increase rates it may vacate it on its own initiative.

How is a working agreement ever to be effective between employer and employee if those members of the board who necessarily have the least practical knowledge by way of experience of the subject matter and constituting only one-third of its membership have this arbitrary and autocratic power over the action of two-thirds of the board? What kind of a treaty would any nation ever ratify if it did not have any voice in the making of it? A treaty so made would be a treaty by violence, a treaty by force, and that is practically what is provided in this bill as to the power of the minority of the board. It can prevent any agreement being made simply by refusing to approve it. This bill gives to the public representatives power exceeding that of

two-thirds of the board, and is in theory and in fact minority rule. The two-thirds of the board may decide that they can work together and carry on transportation by unanimous agreement, but unless at least one of the three public representatives, be he some lawyer, doctor, or college professor, joins in the agreement there can be no decision.

Mr. RAYBURN. Will the gentleman yield?

Mr. SIMS. In a moment. There is no punishment provided for striking in this bill, and by giving an absolute veto power even by silence to the minority of the board you are absolutely inviting, encouraging, and promoting strikes under this bill. I think that the conference committee ought to further consider this bill, and if it can not make any other change it ought to change it so as to provide that at least one member of the employer group and one member of the employee group and one member of the public group shall all agree to any decision before it is valid and binding. Under this bill the three members representing the railroads and two representing the public can make a decision. Or three of the representatives of the public and two of the representatives of the railroads can come to a decision.

Or three of the labor representatives and two of the public can make a decision, but all six of the members representing employers and employees can make no valid decision, although constituting one more than a quorum of the board. Now, let us do the fair and the right thing both to the employers and the employees and give them the same power that the public representatives have in this bill.

One thing further I want to refer to. My friend Mr. ESCH is an able lawyer, and he believes that the power of the President in issuing his proclamation was absolutely exhausted under the law and that he can not do anything further regarding the return of the railroads; that he can not vacate or rescind his order. Remember, it is an order to take effect in the future. He has parted with none of his power, and retains it fully until March 1. Nobody else has been clothed with any power. I have no doubt that the President remains clothed with full and complete power until 12.01 o'clock a. m. on the 1st day of March, and until that time he can revoke or modify his order and can extend the effective date to a later day.

You will remember that the same talk was had, the same hurry was put up to the Committee on Interstate Commerce to get a report in early and have speedy action in the House and Senate before the 31st day of December, 1919, upon the idea that the President had stated in May that he was going to return the roads on that day to their owners. I did not believe that he would do so without legislation and I do not believe that he will not revoke his order and postpone the effective date thereof if legislation is not had by March 1. His order is executory in character, and I am surprised that any good lawyer should claim it to be otherwise. I have heard some lawyers say that it was like the power conferred in an instrument—that when exercised it is ended. The President under existing law has full power until 21 months after the issuance of the proclamation of peace, but if he sees fit to do so he has power to return the railroads at any time, but until the roads are actually returned the President has full power to revoke any order he may make or to modify it in any way.

It will not be necessary for the President to revoke his order, as I have no doubt that the Senate conferees will yield on almost anything in order to secure the passage of the bill by March 1. I believe they will yield on section 6 in the Cummins bill and that they will yield on the labor provisions, so as not to enable a minority on the labor board to have more power than a majority.

A very learned and adroit argument was made by the gentleman from Pennsylvania [Mr. DEWALT] to prove, in effect, that some railroads may earn lawfully that which may become unlawful to retain. Now, this bill provides that the Interstate Commerce Commission can declare the whole United States a rate district, and it has the power to fix a rate based upon the value of all the railroads in the United States, that must provide a minimum net return upon the value of the whole property of not less than 5½ per cent for the first two years, but after that time the commission will have power to make the minimum net return either less or greater than 5½ per cent on the value of the whole property in rate-making groups that may be established by the commission, which may be the whole United States or any part of it.

Now, what is the object of fixing an absolute minimum net return on value of the railroads? It is in effect fixing a minimum wage for the dollar. We establish the principle by this bill that a dollar invested in railroad property shall have for its minimum wage not less than 5½ per cent per annum upon the value of the railroad property within the rate-making district in which the dollar is invested. What is the result? The commission is given no power to fix the price of supplies that the railroad buys from the manufacturer that possibly holds stock in the railroad. It is given no power to fix the price or the wages paid, no power to fix the salaries of railway executives. I regret to tell it and would not if it was not already public. When I offered an amendment to the bill in the House that no amount in excess of $20,000 per annum of the compensation of any railway executive should be charged to operating expenses, I showed that 204 of them were getting not less than $20,000 and some of them more than $100,000, and the House refused to accept it but voted it down. So gentlemen of the House by their votes, in effect, said that those salaries are not excessive and should be treated as operating expenses.

What do you think of the rights of a poor laborer working under compulsion of necessity who gets not more than $4 or $5 a day, while railroad presidents who sit in Wall Street and do not see the roads more than once or twice a year get $100,000, all of which must come from the earnings of the road before it pays any dividends, and your 5½ per cent net comes on the property value after all these things are taken care of? Is that what gentlemen are in favor of in this bill? Do you want to go back home and present that situation to your constituents as the sum of all you could do in your efforts to take care of this situation? Why, if you can fix the minimum net profits upon a dollar invested in railways, why can not you fix it on a dollar invested in the manufacture of engines; why can not you fix it on the dollar invested in the manufacture of cars; why not fix it on the manufacture of steel rails for railroads, as well also as on the producers of coal for the railroads, all of which is a part of the expense of railroad operation and maintenance? Why not say to the Steel Trust that 6 per cent net is all you are entitled to on the value of your property, because practically everything you make is used by public utilities for the benefit of the public? Why not say to the coal barons, we allow the railroads only 6 per cent profit on their investment and we can not allow you any more on your investment? Of all over 6 per cent you can keep half, but in excess of 6 per cent the other half you must turn over to the Government.

Much of the railroad property is not used directly but indirectly in transportation. I mean in the actual movement of traffic. Take a station, for example. A terminal is just as necessary as the tracks. Look here under your eyes at the Terminal Station in Washington. It is owned by two railroad companies. I do not know how the commission is going to get at its value for the first two years. It has got to take the book value or some other kind of value, and it will be a guess, I do not care what it takes. Take the passenger terminal station, with not a cent collected for the use of it from any passenger, and yet it is property owned by the railroad company and used in transportation. Therefore, the freight, the traffic that does pay the 5½ per cent, must be sufficient to cover the value of this non-revenue-producing property.

Take the mammoth passenger stations in New York City. They cost about $150,000,000 each when constructed—their property and connections. Not a cent do they charge anybody for going into those mammoth stations, but they are railroad property, and they are used in transportation. Their value will be added to the total value on which 5½ per cent must be paid, and who will pay it? The freight traffic, and nothing else.

It is claimed by the railroads, or the railroad people, everywhere that, in addition to the 40 per cent increase in rates, 15 per cent just before the railroads were taken over by the Government and 25 per cent afterwards, that these rates will have to be materially increased, and you are voting for this increase if you vote for this bill, not only the increase in rates heretofore made to continue but by this new-fangled, socialistic, communistic legislation these war-made rates are to be further increased. This section is a beauty; this bill is a beauty. It has some good legislation in it, but we can take out all of the bad and leave all the good. This legislation is socialistic; it is communistic; it is capitalistic.

The commission after two years can make the net return 6 or 7 or 8 per cent. It has the power to do it on all of the value of all the property used on which the rate is based. That is capitalism. The minimum wage for Wall Street money or yours or mine that goes into it, and no minimum wage for the dollar of the farmer, none for the dollar of the raiser of wheat or corn, none for anybody but these preferred investors who have asked the privilege to exercise Government sovereignty through charter privileges to take private property for their use. That is capitalism by condemnation pure and simple. To take from the prosperous roads, those that have been efficiently managed and economically operated, a part of their earnings

is communism. A railroad can not refuse traffic. If it has not sufficient facilities, it must invest more money to get same, and then, if by the growth of the country, by the good judgment and industrious, efficient, and economical management, it makes more than 6 per cent, communism steps in and takes one-half of it on the theory that it was unlawful to make over 6 per cent.

Let me say something to you horny-handed sons of toil who, when you are at home, are telling the farmers that you put in your whole blessed time here working for them. Let me show those farmers how you are serving them in this House at this hour. Take the Baltimore & Ohio Chicago Terminal Railroad. The last year before Government control it operated 79 miles of railroad. It has a stock issue of $8,000,000. It has a bond issue of $33,044,000, or $418,072 per mile. The total bonds and stock amount to $41,044,000, or $519,544 per mile. Let us see what the owners of that stock are getting out of that terminal company in the way of net returns. In 1912–13 they had a deficit. In 1913–14 there was another deficit. In 1914–15 it made 4.06 per cent. In 1915–16 it made 4.01 per cent. The deficit for the whole time is 100 per cent. The railway operating revenue for 1917 per mile of that road was $24,577; railway operating expenses per mile for the same year were $25,372. The $40,000,000 investment does not pay expenses of operation, yet it comes under the provisions of this bill, and in the rate district in which Chicago may fall the value of that property will be added to the value of all of the other property on which the minimum 5½ per cent must be made. The value of the passenger terminal here in Washington will be added to all of the other railroad property of the owning roads. This terminal may not bring in a cent of net return, and the Chicago terminal may not bring a cent above expenses of operation, but you are providing in this bill that the value of nonrevenue-producing property shall become the basis for rates upon all of the property on which net earnings are made.

There is yet plenty of time before the primaries and much more time before the general election for the people to find out what we have voted to put on them by way of additional burdens by this bill. During this time the commission will be figuring out the 5½ per cent net minimum return on railroad property. If a railroad costs $500,000 per mile and another one costs $50,000 a mile, and they both perform the same transportation service, is it worth more money to the shipper to have a bale of cotton carried on one than on the other? This is capitalizing the unearned community value of the property and requiring by inflexible provisions of law that not less than 5½ per cent net must be paid on it.

Nobody knows what it will be. But not satisfied with this burden upon the people, we give a subsidy for the first six months. That is, we will continue the payment of the war rental for that period. We made a loss during the war, and it was expected we would, as we gave the roads a rental equal to the three years preceding the war and two of those years were the best they ever had. It was all right during the war. We provided to continue the war control for 21 months after the war, largely with the view and intention of letting the Government after its war-losing period have a little time to recoup these war losses and save loss to the taxpayers. Now, you are permitting the owners to take the roads back and agree to loan them through funding or otherwise over a billion dollars. How will you feel when you go home while rates are being increased on everything that the farmer grows, while increasing the earnings of the railroads by a pure subsidy, but decreasing the net earnings of the property which the farmer has, who has no Government franchise privileges, who has no Government subsidy guaranty, who has no Government protection against his labor costs by providing by law for a net profit in the value of his farm of 5½ per cent minimum?

What do you think about that, my good friends, both Democrats and Republicans? If you do not mind your constituents will come pretty near thinking you are plutocratic and capitalistic rather than democratic. Now, my friends, this labor provision legislation will come nearer producing strikes than preventing them. You have no penalty, not even a civil one by way of damages, against strikes. I will not say that as to the power to issue injunctions against strikes. But are you really going to help the weak roads? That is why you are taking away from the roads one-half of all net over 6 per cent, which will depreciate the value of the property on which excess earnings are made. I beg to say that a railroad has practically no value except its net earning power. Its property can not be used for anything except transportation. You can not reduce its net earnings without reducing the value of its property, as it has no other value.

Now, take a railroad like the Burlington or any other railroad built economically and operated under good management, and say it makes 10 per cent net on value. That is 4 per cent over the 6 which it is entitled to retain. You let it retain 2 per cent to put into its reserve that it does not need, and 2 per cent goes to the Government, to hold in trust as a contingent fund, which the Interstate Commerce Commission may either loan to railroads or use in the purchase of equipment to be leased to railroads. The funds loaned must be well secured, and 6 per cent interest must be paid on the loan. While the bill does not so provide, it is supposed that the so-called weak roads are to have the benefit of borrowing from this contingent fund over the so-called strong roads. The credit of any railroad must be poor indeed that would or could afford to borrow large amounts of money at 6 per cent and be compelled to give good security for such loans. In other words, such roads are necessarily already heavily indebted, or else they could borrow from private sources with good security at less than 6 per cent interest. Such a railroad must be bordering on insolvency and a receivership to justify it to borrow at such a high rate of interest. If such was the case, the Government would not and could not loan to such a railroad without being made a preferred creditor. It is inconceivable how a weak road can have its credit strengthened by going still deeper in debt at a high rate of interest. If its earnings have not been such as to give it credit prior to the Government loan, the mere fact of the additional burden of debt will not increase its net earnings but must necessarily increase its fixed charges.

It is but natural that such borrowing will add to the weakness of the road and that ultimately the road will have to be sold, and the Government will, in order to protect itself, have to buy it in, and thus become the owner of the road and must either operate it or sell it at the market price and take the loss. If a large fund is ever built up through excess earnings in this way the Government will eventually either become the owner of many railroads that can not any more compete with the strong roads, by reason of these Government loans, than they can without them, or else become the burden bearer of all these numerous weak roads, and take the losses on its loans that will naturally come to it in the inevitable receiverships that will result from this socialistic financing of the weak roads in time of peace and under normal conditions. But if the contingent fund should not be sufficient to loan all the weak roads all the money they will need and which it is assumed they can not otherwise procure, then the weak-road problem will not be solved and some other solution will have to be found.

But suppose some of the weak roads had rather lease equipment from the Government than borrow money, the Government must either purchase equipment or else manufacture it in its own shops, as it would have a right to do, and lease this equipment to the weak roads for a sum that will provide 6 per cent return on the cost of the equipment, and in addition thereto an amount as a depreciation fund that will enable the Government to purchase or manufacture the same amount of equipment to replace the equipment worn out and scrapped.

The Government will thus become the car builder, the engine builder, and the builder of all other equipment ultimately for all railroads. This will be inevitable, as no private corporation can compete with the Government in the purchase of equipment. Nor can any private manufacturer compete with the Government in the manufacture of equipment. The Government can acquire its materials for manufacture in vast quantities and at better prices than can any private corporation, and it can and will sell its manufactured equipment at the bare costs of manufacture, with no profits or dividends to be provided for in its operations. Or it can lease its equipment at a lower rental than can any private owner of such equipment. By the definite specific provisions of this bill we have actual, real, practical Government ownership of transportation facilities. There is no distinction or difference in principle in the Government ownership of engines, cars, and other railroad equipment than in the Government ownership of the tracks and terminals of the roads.

This bill, therefore, both in principle and policy, commits this country to the doctrine of Government ownership and operation of railroads. The necessary equipment property of railroads is fully equal to 25 per cent of the total value of railroad property.

The camel's head is in the tent and the process of full and complete nationalization of railroads will commence with the enactment of this bill, both as to Government ownership of the physical properties and as to Government financing of the railroads. Such is the logical and inevitable effect of the practical application of the mandatory provisions of this bill. It is true that in this way the Government funds with which to begin the process of Government ownership will not come directly through general taxation. It will begin by taking one-half of all the net

earnings of railroads as a whole in excess of 6 per cent and devote that sum to financing insolvent and discredited roads, which will result finally in the Government ownership of the weak roads, and also in the immediate Government ownership of railroad equipment and operation of same through lease contracts. This must inevitably follow eventually the enactment of this bill unless the excess-earnings provision is declared unconstitutional. If it is unconstitutional, then this bill is a complete failure in so far as its being any aid to the so-called weak roads, and if such proves to be the case, the death knell of any further experimenting with private ownership and Government regulation of railroads will have been sounded.

How is it conceivable that the weak roads can be strengthened by depriving the strong roads of a part of their net earnings for the benefit of weak roads without having the direct effect of weakening the strong roads to the extent of their net earnings so taken?

It is not thinkable that the weak roads can be strengthened by the aid that they receive from the net earnings of the strong roads without weakening the strong roads in a like ratio by the loss of net earnings. The result will be that the combined strength of all the roads will be no greater by reason of the operations of the contingent fund than the combined strength of all the roads was prior to establishing such sinking fund. As the value of railroad property depends entirely upon net earnings, the reduction of net earnings must necessarily reduce the value of the property of the railroad whose net earnings have been taken and to the extent the value is so reduced the railroad's property has been taken by the Government without just compensation, which is unconstitutional. I do not see how the President can fail to veto this bill on account of this unconstitutional excess-earnings contingent-fund provision. But regardless of any constitutional difficulty, I am unalterably opposed to providing for any definite, specific, statutory net return on the value of railroads, whether valued as single railroads or in systems or by groups, and I am firmly opposed to the recapture of any portion of the net earnings of any railroad in excess of such fixed statutory return. Such proposed recapture provisions in this bill will certainly tend to reduce and stifle individual incentive and enterprise and will result in discouraging the building up and improving of existing railroad properties and will put a stop to the construction of additional new lines, so badly needed in some sections of the country.

This bill provides that the Interstate Commerce Commission on its own initiative may establish both minimum and maximum rates, fares, and charges. This is a new departure in our interstate-commerce law. Heretofore the commission has only had power to determine a reasonable maximum rate. Just what effect the exercise of this new power will have upon rail rates as a whole remains to be seen. But it certainly empowers the commission to eliminate all competition as to rates. But, strange to say, this bill also authorizes the commission to divide the whole continental United States into competing systems. How are we to have competing systems of railroads if common minimum rates are to be established for all these systems? No road can reduce its rates to meet the demands of its shippers below the established irreducible minimum.

By the mandatory provisions of this bill the commission must establish a level of rates that will produce a net income of not less than 5½ per cent on the value of all the railroad property in the United States taken as a whole or in groups less than the United States as a whole. Therefore, the minimum level of rates can not and must not be less than will be necessary to produce the 5½ per cent net return on all the railroad property in the rate-making area. The imperial State of Texas can not put into effect an intrastate rate that would be valid if the rate, in the opinion of the commission, would result in giving rates within Texas that would be less than the established minimum level, or that might, in the judgment of the commission, tend to reduce the minimum net return below 5½ per cent on the railroad property as a whole in the rate-making district in which Texas is a part.

Will anyone attempt to say in practice what will be the margin of competition between the minimum and maximum rates in any class or commodity rate? What will be the margin between the minimum and the maximum rates on coal in the section of the United States east of the Mississippi and north of the Ohio and Potomac Rivers? What will be the margin between maximum and minimum rates? What will be the width of the zone of competition on coal in that competitive field? In that field it might, and probably would, be that the minimum level of rates on coal would be all that the strong roads would care to charge, and that such roads would make the established minimum also the maximum rates on coal in that field. Under this bill the commission could not prevent the strong roads taking such action which would result in the minimum becoming also the maximum rates on coal in that entire section of the country. While the strong roads may be able to make a good profit on minimum rates, the weaker roads could not possibly make more than operating expenses.

The result would be that the weaker roads would importune the commission to increase the minimum rates on coal. Or it might be that the strong roads could make a net return of 6 per cent on the level of minimum rates on all traffic in that district and would adopt the minimum established by the commission on all traffic as the maximum; and especially might this be the case as the strong roads will be required to give up one-half of all net earnings in excess of 6 per cent. But what would become of the weak roads in competition? Would they be in any better condition as to increase in net earnings than they are now? In practice the minimum will become the maximum rates and competition will cease to exist as completely as if all the roads in the rate-making territory were owned by one company.

Mr. Speaker, I have not the time at my command to point out in further detail all the objections I have to this bill. But I do not believe that it is, in fact, a measure that will make the private ownership and operation of railroads a success. I think it will prove to be the real beginning of a movement for Government ownership that will end in the complete nationalization of railroads in this country. I do not think it is possible to give the country the transportation service it needs and must have, coupled with profits on investment and operation. Private capital can not and will not invest in any kind or character of enterprise except for the profits expected to be secured thereby. In my opinion this bill will not create a demand for either the bonds or stocks of existing railroads in sufficient volume to furnish the new capital needed and that we will soon be asked to add further legislation to this measure looking to the further strengthening the credit of railroads. As a country grows older it naturally demands and must have cheaper transportation, and finally it demands and must have transportation at actual cost of furnishing it. I think this country has now reached that period. But associations of railway executives, committees of railroad security holders, groups of investment bankers, high-salaried railroad officials, and railroad lawyers are all engaged at this time in a desperate and determined effort to continue private ownership, private operation, and private financing of railroads.

Mr. Cleveland once said: "Unorganized good intentions and idle patriotic aspirations can not successfully contend for the mastery against the combined efforts of avarice and greed." The unorganized and unawakened public may not prove to be equal to the task of defending itself against the combined assaults now being made against it by the well-organized and well-disciplined forces of avarice and greed; but it is only a question of time as to when it will awaken and when it will organize, and then it will sweep every impediment out of its way.

The furnishing of the means and facilities of transportation to the public is a Government function, duty, and obligation. The Government may make use of private agencies in discharging this duty, but only upon condition that transportation through private agencies must be as efficient and as economical as it can be furnished by the Government through direct ownership and operation. The Government can and will, if it undertakes it, furnish transportation at cost. That is, at just what it costs the Government to furnish it, including no element of profit on investment or in operation.

Unless through private ownership and operation transportation can and will be furnished at rates, including profits on capital invested, not exceeding the rates charged by the Government, which will not include profits on investment, it is the duty of the Government to own and operate the railroads in the public interest.

But it is claimed by the advocates of continued private ownership and operation that by reason of private initiative and competitive service the privately owned and operated railroads can and will give a service equal to or better than can or will be given by the Government and will be so much more economically operated that the difference in costs of private operation as compared with Government costs of operation will enable the payment of a fair and reasonable profit on the capital invested at rates no higher than would be necessary under Government ownership and operation, exclusive of any profit on investment.

If this contention in favor of private ownership can be established to the satisfaction of the general public, the chief argument in favor of Government ownership would be greatly weakened, if not refuted. But only upon the assurance that private ownership and operation can and will furnish all needed transportation facilities at a cost to the public, including a profit

on capital sufficient to secure a reliable and dependable market for railroad securities in such volume as the present and future needs of the service may require, and at rates that will not exceed the rates for similar service furnished by the Government without including any profit on the investment, should private ownership and operation be adopted as a permanent policy.

There has never been any sort of compulsion, moral or otherwise, that has forced private capital to invest in railroad enterprises. The Government has never done anything to induce such investments, and no moral estoppel can be pleaded against the Government now acquiring all the railroads at their fair market value and resuming its natural and proper function of furnishing all needed transportation to the public at actual costs.

On account of the exercise of bad business judgment, more than half the railroad mileage of the United States prior to the present war, with Government regulation of rates, had ceased to be profitable. No longer would private capital take the chances of almost certain loss by investments in either the stocks or bonds of the so-called "weak sisters."

The owners of these "weak sisters," as well as other sisters not classed as "weak," began a most active campaign through newspaper and magazine advertising, by circularizing and through public addresses, to so affect public sentiment as to cause pressure to be brought against the Interstate Commerce Commission in favor of rate increases asked by the railroads, but which the railroads, prior to the war, had not been able to convince the commission that they were justly entitled to have. The charge was made that the commission had fixed rates so low that the railroads had been starved and that by reason of the action of the commission a state of arrested development was actually confronting the country; that unless rates were increased to such figures as would make railroad securities a desirable investment, Government ownership was inevitable.

On account of this self-defamatory campaign, more than anything else, it became very difficult to market stocks and bonds bearing rates of interest that did not on the face of the security suggest its own unsoundness. Higher rates were asked for, solely to increase profits on the investment.

At one time, just prior to Government control, there were about 40,000 miles of railroads in the hands of receivers in the United States, a mileage exceeding the total of Great Britain and Ireland, greater than all the mileage in the Republic of France, greater than all the mileage in Italy, Holland, Belgium, and Switzerland combined, and almost, if not quite, equal to all the mileage in the German Empire prior to the Great World War. Could there be more irrefutable evidence produced of the economic and financial failure of private operation and management of railroads?

It is alleged almost daily in the "influenced" press of the country that it would cost the Government $20,000,000,000 to purchase the railroads, and that at this time it would be impossible to float a bond issue of that amount without increasing the rate of interest to 5 per cent, or in excess of that amount; that such a rate of interest would bring down the market value of Liberty bonds to 75 or 80 cents on the dollar.

The whole bonded and short-time note indebtedness of all class 1 roads, exclusive of duplications, does not exceed $9,500,000,000 or $10,000,000,000 par value. The whole volume of outstanding stocks of all class 1 roads does not exceed $8,000,000,000 par value.

The market or realizable value of this whole volume of bonds upon the average will not exceed 80 cents on the dollar, as shown by actual sales made on the New York Stock Exchange for the three years of 1917, 1918, and 1919.

If the whole issue of bonds and short-time paper should amount to $10,000,000,000, its actual market value during the three years mentioned does not exceed eight billions. The outstanding railroad stocks of all class 1 roads, exclusive of duplications, will not exceed eight billions par value. The average market value of these stocks, as shown by actual sales for the three years mentioned, will not exceed 60 cents on the dollar par value or $4,800,000,000. Therefore the total market value of all the bonds, notes, and stocks of all class 1 roads, exclusive of duplications, at the average at which they have sold on the New York Stock Exchange, for the three years mentioned, does not exceed $12,800,000,000.

It does not matter how much or how little these railroads actually cost, or how much it would cost to reproduce them now, less depreciation, or how much or how little water there is in the stocks and bonds, they are justly and honestly worth what they can be sold for on an average normal market.

The owners have no right to be paid for them more than their true average market value as shown by actual sales during any period of three normal business years.

Tax-exempt bonds of the Government bearing 3¾ per cent interest can be easily sold at par. The interest on $12,800,000,000 at 3¾ per cent amounts to only $480,000,000 per annum. The Government is to-day paying about $940,000,000 per annum as a rental on the railroads that have been taken over by the Government for war purposes, a sum in excess of the interest on the whole estimated market value of all class 1 roads by $466,000,000 per annum.

If by any method of estimating or ascertaining the value of the railroads the value should be found to be $20,000,000,000, as claimed by some, the interest on that sum at 3¾ per cent would be only $750,000,000, or $190,000,000 less than the standard return now being paid by the Government as a rental for the roads.

But it will only be necessary to acquire the stocks of all the roads, either by agreement of by condemnation, in order for the Government to acquire the actual legal title to the roads, subject to the bonded indebtedness or other lien encumbrances on the roads so acquired. It would require the issuance and sale of not exceeding $5,000,000,000 in bonds by the Government, the annual interest charge on which, at 3¾ per cent, would be only $187,500,000 per annum.

The interest rates on the outstanding bonds of the railroads rarely exceeds 5 per cent; many bear 4½ per cent and 4 per cent, and some as low as 3½ per cent. All railroad bonds are subject to Federal, State, county, and municipal taxation. For this reason it will prove an easy undertaking to exchange 3¾ per cent tax-free Government bonds for railroad bonds at market value. Or the Government, if deemed advisable, can resort to condemnation proceedings and pay the value thus found for the railroad bonds.

Notwithstanding the innumerable receiverships and reorganizations that have taken place, no real amortization of railroad capitalization has resulted. In receiverships and reorganizations the bonds outstanding have usually been reduced in order to cut down fixed charges, but in such cases stock issues have usually been increased.

So that after reorganizations have taken place the form of the capitalization has been changed, but the volume remains as large or larger than prior to reorganization.

But by the Government acquiring the railroads through issuance of tax-free 3¾ per cent bonds the fixed charges can thus be so largely reduced, and with dividends on stocks entirely eliminated, that the entire cost of the railroads to the Government can and will be fully amortized in a period not exceeding 50 years, with lower rates to the public than would be necessary to be charged by the owners of the roads to enable them to pay operating expenses, maintenance, and fixed charges, plus a reasonable dividend on outstanding stocks without any amortization of capitalization.

The people will not submit to the payment of rates so onerous and burdensome as will be necessary in order to revive the weakened and debilitated credit of the railroads to such an extent as will enable them to sell their securities in the open markets of the world in competition with all other securities offered to private investors in such volume as will be absolutely necessary for new capital expenditures, without which the public interest can not be served.

With the railroads without credit and with all expenses of operation and maintenance higher than ever before known, it is little short of an act of folly to return the railroads to their owners. Regardless of our opinions and prejudices as to Government ownership of railroads, such is now or will soon become an absolute necessity.

Mr. WINSLOW. Mr. Speaker, I yield five minutes to the gentleman from Indiana [Mr. SANDERS]. [Applause.]

Mr. SANDERS of Indiana. Mr. Speaker, this conference report on the railroad bill is the result of many months of labor. It comes back to us to-day with the sanction of a unanimous vote of the conferees from the Senate, both Republicans and Democrats, and with the consent of the conferees on the part of the House with the exception of the gentleman from Kentucky [Mr. BARKLEY] and the gentleman from Tennessee [Mr. SIMS]. The gentleman from Kentucky is of the opinion that a certain section of this bill is unconstitutional. So it resolves itself into this situation, that of those who believe the bill is unconstitutional the only one who objects to it is the gentleman from Tennessee [Mr. SIMS], who has just closed his argument. I have great respect for the gentleman from Tennessee, and you can readily see, gentlemen of the House, the embarrassment with which the gentleman from Tennessee is confronted. On May 19, 1919, the gentleman from Tennessee introduced a bill in this House to continue the Federal control of railroads until January 1, 1924. On November 5, 1919, he introduced a bill to continue Government control and operation of railroads until December 31, 1921. On

December 2, 1918, he introduced an additional bill to continue Government operation of railroads until December 31, 1921, and on August 2, 1919, by request, he introduced another bill to take the railroads and turn them over to the railroad employees for a period of 100 years. Now, with all of those bills, how could the gentleman be otherwise than embarrassed? [Applause on the Republican side.] And, gentlemen, this question, after it is stripped of all its verbiage and camouflage, is a question of whether we are going to have private ownership and management of the transportation systems of this country or whether we are going to have Government control or ownership. There has been a great deal said with reference to the labor provisions. That labor question is very simple.

Labor is opposed to the antistrike provision. They were also in favor of Government control and Government ownership. The House voted against the antistrike provision and voted against Government ownership. The Senate yielded, and in this bill there is no antistrike provision, and the only labor fight you have will be the fight for Government control or Government ownership or the Plumb plan. That is the thing that is before this body to-day.

There is one other thing that ought to be explained, and I have only a few moments, and that is what occurred at the fake double-barrel caucus the other night. It was contended there by the gentleman from Kentucky [Mr. BARKLEY] that the labor provisions of this bill were not written by the conferees, but he said they were written by an outside individual and did not have deliberate consideration in conference or even by the individual. On being pressed about the matter he said the person who wrote them was Mr. Hines. Mr. Hines directed a letter to Mr. BARKLEY in which he said:

UNITED STATES RAILROAD ADMINISTRATION,
Washington, February 21, 1920.

Hon. A. W. BARKLEY,
House of Representatives, Washington, D. C.

MY DEAR SIR: I am told that the impression has been created, as the result of a remark made by you in a recent conference of Members of Congress and others, that I originated the labor provisions in the railroad bill.

If this impression has been drawn from what you said, I am sure what you said was misconstrued, because I am satisfied any statement you may have made on the subject was accurate.

In order to prevent the possibility of the situation being confused and of the idea prevailing in any quarter that the labor provisions represent a policy originated by me instead of by Congress, I shall appreciate it if you will be good enough to read this letter to the House.

Through the courtesy of the conference committee I received last Saturday a draft of the labor provisions, showing that the conference committee had definitely adopted two leading principles. The first was that there ought to be a wage board upon which the public, the employees, and the carriers would be represented. The other was that statutory provision ought to be made for boards of adjustment to deal with grievances.

I took the action of the conference committee on these two leading principles as indicating its final conviction that these two principles should be incorporated in the legislation. Taking this as the foundation for my consideration in the matter, I addressed myself exclusively to the question whether the details of the provisions agreed upon by the conference would satisfactorily carry out these fundamental principles. In transmitting my suggestions to Senator CUMMINS I stated that "this redraft is not designed to propose any independent view of my own on this subject but is designed simply to take the general scheme of the draft as already agreed upon and modify it so as to incorporate therein the suggestions made in my letter of the 14th instant."

As to the wage board, I found that while the conference had adopted the three-party principle—that is, representation of the public, labor, and carriers—it had provided for only one representative of labor and one of the carriers as against three of the public. I therefore advised that a more satisfactory and reasonable application of the principle of three-party representation would be to have three representatives of labor and of the carriers, as well as of the public, making a board of nine instead of five.

As to the adjustment boards, I found that the provision agreed upon by the conference undertook to specify the organizations of employees which should be represented upon these boards and would result that the board of adjustment which would pass upon grievances would be dependent upon that particular organization to which the employees belonged, thus producing a great deal of confusion and endless jurisdictional conflicts between different organizations. I therefore advised that the entire matter of boards of adjustment be left to the agreement of the carriers and the employees instead of being made rigid and inelastic by statutory specifications.

In the original draft which came to me I found that the boards of adjustment created thereunder were to handle not only grievances but wage matters also. My experiences with the railway boards of adjustment and with wage matters in the Railroad Administration convince me that it will be impracticable for such boards to handle both grievances and wage matters because of the enormous amount of work involved, and I therefore suggested that the adjustment boards devote themselves solely to grievance matters.

There were various minor features which I suggested. One was that a man ought not to be disqualified, as he was by the provision agreed on in conference, from being a public representative of the wage board because he might theretofore have been an officer or member of a labor organization or an officer of a carrier. I also advised that representatives of the employees on the wage board should not be required, as they were in effect by the provision agreed on in conference, to give up honorary membership in their labor organizations. I also advised that there be added to the standards provided in the provision which the conference had agreed to for testing the reasonableness of wages the further standard of correcting inequalities due to former wage orders and adjustments.

I requested our division of law to take the provision as agreed on by the conference and to make such changes therein as would be necessary to express the changes in detail which I above suggested, and I submitted this revised draft of the provision as agreed on in conference to the conference committee.

I think I should add that the draft of these labor provisions as it came to me provided that a dispute could be taken up by the adjustment board under several alternative conditions, which included, among others, a written petition signed by 100 unorganized employees or subordinate officials directly interested in the dispute.

I think it important thus to make it clear that the fundamental principles of the labor provisions are the principles agreed on by the conference committee, and that my action was simply to suggest changes in detail which, in my opinion, would make the principles already adopted by the conference committee more workable than they would otherwise be. Copies of my letters on this subject to the representatives of the conference committee are attached.

Sincerely, yours,
WALKER D. HINES.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. WINSLOW. I yield the gentleman five minutes additional.

Mr. SANDERS of Indiana. That letter was sent to the gentleman, and he was asked to read it to the House but did not do so. [In fairness to the gentleman from Kentucky in revising these remarks I desire to insert at this point that he has since informed me he had not then received the letter.] I am not going into the other questions raised there at that caucus. I think it was not called properly. It was the last-ditch effort of all the forces who opposed this bill to join together to defeat this railroad legislation and bring about a chaotic condition that would foist Government ownership or Government control upon the people of this country against their will.

Mr. Speaker, this conference report embraces the legislation by which it is proposed to return the railroads to private operation under such terms as to make transportation a success.

It is constructive legislation. Whatever criticism may be directed against it, whatever faults may be attributed to it by those who may oppose it, everyone must concede that it recognizes that we have a real railroad problem and offers a solution. The bill as agreed upon by the conferees proceeds upon the assumption that transportation is a necessity, that it is a public function, that it is the duty of the Government to see that it does properly function, that this duty not only requires restrictive provisions by which the public is protected from any imposition on the part of the carriers but also requires provisions which shall foster and encourage the business of transportation by the quasi-public corporations.

The restrictive features fix the rates that may be charged; control the practices and regulations that may be made effective; prescribe in great detail and with minute exaction how the roads must be financed, the manner in which securities may be issued, and the way in which the capital shall be expanded. Consent of the Interstate Commerce Commission must be obtained to construct new lines of railroad, to extend the old lines, or to acquire or operate any line. No line or part of line can be abandoned without the consent of the commission. The railroad may be required to furnish facilities for transportation, and if it does not possess them to provide itself with adequate facilities to properly serve the public. It must distribute cars in the manner prescribed by the commission. It must permit other roads to use its terminals when directed by the commission to do so. These instances are merely illustrative of the restrictive regulations by which complete control is given to the Government over the instruments of transportation, and, indeed, over the owners of the instruments themselves.

Having given to the Interstate Commerce Commission the fullest authority to supervise the charges that shall be made and to determine the manner in which capital may be secured, and having granted to the commission the power to fix rates we have determined as a legislative policy that the roads in any given rate group considered as a whole, which are honestly, efficiently, and economically managed, shall have such rates as will yield a fair return on the property value. For a period of two years this is fixed as nearly as may be at 5½ per cent. This function of the commission does not differ materially from the function already exercised by the commission, except that the bill adopts the 5½ per cent for two years as a matter of legislative policy rather than leaving it to the commission.

The clearest illustration of attempting to meet the railroad problem in a constructive way is found in the provision for a recapture by the Government, to be used for transportation purposes, of one-half the amount earned by any road above 6 per cent. Where you have two competing roads between two shipping points these roads of necessity must charge the same rate, otherwise the road charging the lesser rate would get all the traffic. Yet a rate fixed for the carriage of freight between those

points might yield an unconscionably large return to one road, which by reason of a better route, roadbed, or other similar causes was able to operate at less cost, and yet the yield for the other road might not be large enough to even approach a fair return. This is the problem of the strong and the weak road, and that has been called by many students of the subject the real railroad problem.

I have reluctantly yielded to this doctrine of recaptured earnings. I do not believe in it at all upon principle, but its use in this case affords an apparent solution of the most perplexing question connected with the regulation of transportation.

Mr. Speaker, this legislation is too important, its effect upon the happiness and prosperity of our Nation too great, for any petty political consideration. It is no time for the play of partisanship. We on the Republican side of the House joined you on the Democratic side of the House in turning over these properties of the value of eighteen or twenty billion dollars to the President that they might be devoted to the one and single purpose of winning the war. We were united then in that crisis. We are now in the aftermath of that war and the reconstruction crisis is at hand. Our country's happiness is as much at stake as it was on April 6, 1917.

The settlement of the great areas of our country from the Atlantic to the Pacific and from the Dominion to the Gulf has been determined year after year and decade after decade by the location of the lines of transportation, until to-day they form a network of arteries through which courses the lifeblood of the Republic. Our transportation system unites the areas underlain with great beds of coal with the ore deposits of other sections. Its magic touch brings the tropical fruits of the Pacific coast and the sunny South into every village and hamlet in the land. It translates the great forests into the houses that dot the treeless prairies and make solid the long line of residences in the densely populated cities and towns. It winds through the coal fields and before many hours have passed lighted fires bring the welcome glow to many hearthstones in far distant parts of the land. It makes possible the varied and manifold activities of our industrial, business, and social world.

We have one-third of the railroads in the world; we have the cheapest transportation on earth; we have the best service and most efficiently managed railroads anywhere. It has been built up under governmental regulation, by private initiative, skill, and industry. We shall to-day give sway to American genius that will bring up our transportation to its highest point of efficiency and sustain it in all its vigor. [Applause.]

Those who are opposed to Government ownership and want private ownership to be inaugurated and do not want to bring about chaos should vote for this conference report. And it does not matter that there are some people who claim that they are labor leaders in this country, who still claim that we ought to have Government ownership and would direct us otherwise. The time has come when the rights of all of the 110,000,000 people of this country must be put above the rights of any class, and, so far as I am concerned and so far as my influence is concerned, I shall be for the course that will finally bring happiness and prosperity to all of our people. [Applause.]

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. BLACK. Mr. Speaker, I shall support this conference report, but in doing so I shall state very frankly that there are some of its provisions which I do not approve, and if the bill were before us for amendment I would do my best to seek to amend it in some particulars. In the limited time which I have at my disposal I shall not attempt to point out these provisions to which I object.

This railroad legislation is a very comprehensive measure and deals with many different phases of the transportation problem, and it would hardly be expected that a Member would find himself in accord and agreement with every provision of a bill which is so wide in its scope. To my way of thinking, it does, however, contain legislation which will be of such constructive and lasting benefit to the country, and is so badly needed, that I feel fully justified in supporting the conference report, notwithstanding there are some parts of it which I do not approve. We have been importuned with great vigor from certain sources to extend the period of Government control for a period of two years, but that would involve a responsibility which I think any Member might well consider before committing himself to such a program. I have no doubt that some Members have hastily replied to solicitations requesting them to favor a two-year extension, agreeing to do so without fully considering what such a course would involve.

I think it is generally admitted by every well-posted man that the minimum needs of the railroads for the next two years in the way of new capital investment will be $2,000,000,000. They must have that if they anywhere near meet the needs of the commerce of the country, and it must be provided by borrowed money. If they remain in the hands of the Government, then the Government must furnish this $2,000,000,000 to the railroads in the way of loans, and to do it it will have to issue its own bonds. Are you gentlemen who are in favor of a two-year extension of the period of Government control willing to vote to issue these bonds to get money to loan the railroads? If you are not, then you should meet the responsibility which is upon you by voting to turn them back to their owners, so that they may finance themselves by private borrowing.

If a Member favors Government ownership of railroads, then I concede that it is perfectly logical for him to favor a further extension of the period of Government control, with the various financial complications which it will involve; but if he does not, then it seems to me to be the logical thing to do to vote to turn them back, so that the Government may be relieved from the continual necessity of digging down into the Public Treasury to get funds to advance to the railroads. I am not one who believes that this bill will solve all the railroad problems. No man in the world is wise enough to write a bill that will do that; but Congress meets every year, and there will be nothing to hinder us from dealing adequately with any subject matter which may arise in the future. It is only by the practical experience with a law that we are able to appraise its real value and learn its defects. So it will be with this bill.

INTERESTS TO BE CONSIDERED IN ENACTING LEGISLATION OF THIS KIND.

The railroads are one of our basic industries and involve the rights of widely separated interests, and all of which are entitled to fair and honest treatment. First of all, there are the employees, which number about 2,000,000, and which have every right to honest treatment. Second, there is the management, whose executive ability, if properly exercised, will be responsible for the honest, efficient, and economical conduct of the transportation systems, and which management is sometimes composed of men who are part owners of the property and sometimes it is not. Third, there are the stockholders and bondholders of the roads, whose capital has been responsible for the roads' construction, and which has given us the best railroad system in the world. These investors range all the way from the man who has accumulated a few dollars and invested them in this manner up to the large banks and trust companies and insurance companies, which have very large amounts involved. Fourth, and then last of all but not least of all, is the public, which pays the bills, and without whose patronage the roads would son become a streak of rust and the employees find themselves without a job.

Have all these interests received fair consideration in this bill? I think that question can be safely answered in the affirmative. I have seen statements coming from sources like Labor, published by the Plumb Plan League, and from some of the labor leaders, stating that this conference report was written at the dictation of Wall Street interests, and such other rash and intemperate statements of that kind. Now, I do not always find myself in agreement on public questions with the gentleman from Wisconsin [Mr. ESCH], who is the chairman of this committee and in charge of the conference report, but no one could make me believe that he agreed to a conference report at the dictation of Wall Street or any other special interest, or that he was neglectful or indifferent to the lawful rights of labor or the public. I can say the same about the other members of the conference committee. There is a difference of opinion among them, just as there is a difference of opinion in the House, but I would hate to believe that these differences of opinion were inspired by unworthy and corrupt motives on either side instead of a lively consideration for the public good. I do not believe it.

Now, first, I will discuss this bill as to its labor provisions. I believe that the first legitimate charge on any industry is a fair and just wage to its employees. I would not vote for any bill which I thought would impair the rights of labor in securing this fair and just wage. I am quite well aware that some labor leaders will be loath to credit me with these motives, because I do not dance every time they play the fiddle, but I have long since ceased to be disturbed by criticism, and if I satisfy my own conscience as to what is right in a given matter of legislation I am very willing to let the political consequences take care of themselves. I have but one constituency to whom I account, and that is the constituency of the first congressional district of Texas, whom I have the honor to represent in this great legislative body.

In my judgment, the establishment of the labor board which is created by this bill will go a long way toward solving labor difficulties in a constructive manner. I shall not undertake to analyze the details set out in the bill which creates this

labor board. Suffice it to say that it provides for equal representation to labor, to railroad owners, and to the public. I am one who earnestly believes in the value of organization among laboring men, just as I believe in its value in the business world; but at the same time, just as I believe that some limitations and restrictions must be thrown around organizations of capital in the public interest, so do I believe that organizations of labor must be under some measure of public control.

This labor provision gives recognition to that principle, and unless I very erroneously appraise its value, it will serve just as useful purpose in securing and protecting the just rights of labor as it will the rights of capital and the public. I especially indorse that provision of the labor section which says:

In determining the justness and reasonableness of such wages and salaries or working conditions the board shall, so far as applicable, take into consideration, among other relevant circumstances:
1. The scale of wages paid for similar kinds of work in other industries.
2. The relation between wages and the cost of living.
3. The hazards of the employment.
4. The training and skill required.
5. The degree of responsibility.
6. The character and regularity of the employment, and
7. Inequalities of increases in wages or of treatment, the result of previous orders or adjustments.

These provisions will insure a square deal to labor. Labor has a right to demand that. It has no right to demand more.

RULE OF RATE MAKING.

Mr. Speaker, I next want to discuss briefly that provision of the bill which introduces a definite and plain rule of rate making, and which has been frequently, erroneously, and unfairly referred to as a guaranty of earnings to the railroads. In my opinion, this is one of the best and most constructive provisions of the bill, and one which will do more to solve the difficulties of the railroad situation than any other.

In the first place, it is not in any sense a guaranty of earnings to any railroad. A Government guaranty of 5½ per cent would mean an attempt to assure a given income independently of rates, instead of assuring adequate rates subject to a limit of income. This bill does not assure or guarantee any railroad any specified earnings. It simply directs the Interstate Commerce Commission to grant a rate on the aggregate value of the roads which will, as nearly as may be, yield 5½ per cent to railroads which are honestly, efficiently, and economically managed. Is there anything unfair or unjust about that? I do not think so, and, in my judgment, anything less than that would not only be unfair and unjust, but would be a shortsighted policy in the caring for the public interest. Capital can not be conscripted to invest in any given industry, and unless it is given a reasonable assurance of protection it simply will not invest, and the particular industry involved must of necessity deteriorate and drift to bankruptcy.

Now, what is the situation as to the railroads? Of the 162 railroads or systems, 109 operate under conditions coming under the head of "less favorably situated." These 109 roads have a total mileage of 120,755, and serve double the area of territory served by the 53 remaining roads. You can not make a railroad rate for each railroad. You can not adjust rates to where they would barely meet the requirements of the 53 large roads without starving the less favorably located roads, but which are just as useful and essential to the territory which they serve as the stronger and more wealthy roads.

Anybody who has given any study to the railroad problem and knows anything at all about it knows that this is one of the big problems which are involved. It can only be met in three ways:

First. By the method provided in this bill, of directing uniform rates over a given territory which will yield in the aggregate as nearly as may be 5½ per cent on the value of all the roads in such territory, and provide that a part of the earnings of any road in excess of such stipulated return shall be recaptured for public use and be placed into a revolving contingent fund to be administered by the Interstate Commerce Commission for the benefit of the public in extending and improving transportation facilities.

Second. By requiring Federal incorporation of all the railroads and compelling their consolidation into a few great systems.

Third. By Government ownership, with all the complications which it would involve.

I am strictly opposed to the last two methods of dealing with the problem, and therefore I favor the first, which is the one which this bill provides, and which, I think, will be fair to capital, labor, and the public. It does not in any sense commit the Government to any sort of guarantee.

CONCLUSION.

I am also earnestly in favor of those provisions of the bill which will give the Interstate Commerce Commission full power to regulate bonds and securities issued by carriers in the future. This is a measure of protection which the public long has needed and which should have been enacted years ago. If it had been, we would have been saved scandals of watered stocks, which have done so much to discredit the railroads in the eyes of the public.

I shall not go into details as to this provision, but will simply say that it is one of the longest steps that has ever been taken by Congress in the protection of the public from exploitation of dishonest and fraudulent promoters.

It will work no injustice to any honest and well-managed railroad. No other kind is entitled to any consideration at the hands of the public. [Applause.]

Mr. SIMS. Mr. Speaker, how much time has the gentleman from Wisconsin left?

The SPEAKER. The gentleman from Wisconsin has 45 minutes remaining.

Mr. SIMS. How much have I left?

The SPEAKER. Fifty-five minutes.

Mr. SIMS. Mr. Speaker, will the gentleman from Massachusetts use some of his time now?

Mr. WINSLOW. We are willing to. Mr. Speaker, I yield five minutes to the gentleman from Georgia [Mr. CRISP].

The SPEAKER. The gentleman from Georgia is recognized for five minutes.

Mr. CRISP. Mr. Speaker and gentlemen of the House, I realize in the brief time allotted me I can not make any extended argument on this great question that we are now about to pass on, but I am opposed to Government ownership of railroads. [Applause.]

The question to-day as I see it is whether we will adopt this report and return the railroads to their private owners, or defeat it and continue Government operation and ownership of them. Mr. Gompers, Mr. Morrison, and the American Federation of Labor have publicly announced in the press that they will defeat for reelection any Member of Congress who does not vote as they direct, so I am fully aware that my vote on this measure may be my political undoing, but after mature and sincere consideration I have reached the conclusion that the welfare of my district, my State, and my country will be best subserved by these common carriers being returned to their private owners, and I am going to vote for the bill, and if it retires me to private life you will hear no complaint from me. I will have the satisfaction and consciousness of having fearlessly performed my duty as I see it, and this to me is worth more than any office in all the world. [Applause.]

Mr. Speaker, this bill in many respects does not meet my approval, but it represents the best efforts of some of the ablest men in Congress, who, after months of labor, have agreed to this report. I especially dislike some of the provisions which interfere with the various State railway commissions in the management of intrastate rates, but all police powers are reserved to the States, and when this report is adopted and the roads returned to their private owners, Congress, which is continuously in session, can amend the statute in this respect and correct this and all other inequities and injustices which appear in the bill. I will gladly support a bill repealing any provisions of this report which prove to be unfair to the public. The valuation of the railroads of the United States has been variously estimated at from $19,000,000,000 to $24,000,000,000. This great sum is owned by life insurance companies, savings banks, guardians and trustees of orphans, and by hundreds of thousands of men and women of the land, who have invested their savings in them. If the roads are returned without legislation, many of them will go into bankruptcy, causing life insurance companies, having out millions of policies purchased to protect loved ones, to become insolvent, rendering the policies worthless; a number of banks and thousands of individuals to become bankrupt, thus creating a panic the like of which will be without a parallel. In great financial panics every citizen is affected, whether rich or poor, and with the world in its present unsettled condition it is folly for Congress to pass any law that would cause financial distress to millions of our people.

I would not vote for any bill that, in my judgment, was unjust or unfair to the employees of railroads, for some of the finest men I know, some of the best friends I have, and some of my stanchest supporters in the past have been employees of railroads, and I dislike to disagree with those friends; but, in my judgment, in this conference report there is nothing in the world that is unfair to them. [Applause.] They object to the labor provisions of the bill because the public has representation on the labor board. Now, what are the labor provisions of

this bill? It authorizes the respective railroads and their employees to create adjustment boards and other machinery whereby they themselves can seek to settle and adjust their differences. If they succeed, well and good. The bill also creates a labor board, consisting of nine members, to be appointed by the President and confirmed by the Senate, each member of the board to be paid a salary of $10,000 per year, three of the nine members of the board to be selected by the President out of a list of six furnished him by the labor organizations, said three members being representatives of labor; three to be appointed from a list of six furnished by the railroad operators, said three to be representatives of the railroad owners; and three members to be selected by the President, representing the public.

Should controversies arise and the employees and railroad operators be unable to adjust their differences as to wages, working conditions, and so forth, this board is empowered to act as an appeal board, to summon witnesses, require the production of books, papers, and so forth, and to give both sides a fair and impartial hearing, and to make their finding, just as courts do in litigated cases. Under the terms of the law no finding of the board shall be binding unless one member of the board representing the public agrees to the report. When this board makes its finding there is no penalty or power to enforce compliance with its decision except public opinion. The extreme penalty is for the board to give publicity to the facts in the controversy and acquaint the public with the evidence in the case. Surely the employees of the railroads can have no reasonable objection to the public knowing the facts in any unadjustable controversy, for the public is vitally interested. Some railroad employees have told me their only objection to the conference report was the public having representation on the labor board; but, in my opinion, the public is entitled to first consideration, for they are the ones who suffer the inconveniences, sustain financial losses, and bear the ills of industrial unrest caused by strikes and the failure of the common carriers to function.

I am opposed to any autocracy that seeks to dictate class legislation for selfish purposes, whether that autocracy be capitalists or the American Federation of Labor. I believe the paramount duty of legislators is to legislate in the interests of all the people and not for any particular class. Capitalists are not required to invest their money in railroads, but if they do so the Governments, Federal and State, say the public's interest in transportation is supreme; therefore governments regulate how the railroads shall be operated, the charges the owners can collect for carrying passengers and freight, the number of trains they shall operate, how they shall be operated, the number of sidetracks they shall build, the number of depots they shall erect, and generally controls the business of the carrier in the interest of the public. I am happy to say there can be no involuntary servitude in America, except for punishment of crime, and no free citizen is compelled to work for common carriers; but if he voluntarily elects to so work, he does so with knowledge that the public is interested in the carriers' functioning, and he, as well as capital, should realize that the public has the paramount interest in the railroad transportation of the land.

The labor provisions of this bill work no hardship either upon the owners or employees of the railroads, but I hope its machinery may result in some good, in adjusting differences between the operators and employees, and thereby prove of great benefit to the public at large. There is no injustice to labor in this provision, and a careful study of it will so demonstrate, and a majority of the fair-minded men who are employed by railroads, when the roads have been returned to their owners, will agree in that opinion, but until the roads are returned the railroad employees will find fault with and oppose any legislation that provides for their return, for they are determined to force Government ownership, or the Plumb plan, and I am equally determined to do what I can to return the roads to their private owners. In corroboration of my statement that the American Federation of Labor will fight any legislation proposing to return the railroads to their owners, I quote from a letter addressed to me, dated Washington, D. C., February 17, 1920, and signed by B. M. Jewell, acting president of the railway employees department of the American Federation of Labor, as follows:

> Allow me, in behalf of the more than 2,000,000 railway employees in the United States, to present for your consideration their reasons why railroads should not be returned to private ownership.
>
> * * * * * * * *
>
> We therefore ask you to oppose any legislation that is intended to return the railroads at this time.

[Applause.]

The war with Germany ended at the signing of the armistice November 11, 1918, but we are still technically at war. I long for our country to be literally and technically at peace with all the world, and I have made up my mind to vote for any fair measures repealing all the extraordinary, drastic war measures enacted while we were at war. This bill repeals one of them and it has my support. [Applause.]

There is one other feature of the report that I shall discuss. Those opposing the bill have had much to say about the guaranty of returns to the owners of railroads for two years. There is no such guaranty in the bill.

The only guaranty by the Government is that the wages of the employees shall not be reduced before the 1st of next September, and the present guaranty of standard returns, which the Government is now guaranteeing and paying to the railroads, is continued for six months. Under Government operation the roads are losing a million dollars per day, and as long as the Government holds them this deficit is guaranteed to the roads to be paid out of the Federal Treasury. I think it is clearly in the interest of the taxpayers to limit this guaranty to six months and then close the door of the Treasury to the railroads rather than to continue to hold the roads and continue the guaranty indefinitely, for the longer the Government holds them the greater the burdens the taxpayers will have to bear. Government operation has proved expensive, inefficient, and highly unsatisfactory to the traveling public, to shippers of freight, and the owners of the roads. The railroads are in worse physical condition than when the Government took them over. From good authority I am informed that under normal conditions the railroads of the country require 2,000,000 tons of steel rails per year to keep the roads in first-class condition, while during the two years of Government control only 200,000 tons have been used; under private ownership a hundred million crossties were used annually, but under Federal control only 50,000,000 have been purchased; during the four years prior to Federal control the railroads built annually 100,000 freight cars, while during Federal control only 50,000 have been purchased; under private ownership 3,000 locomotives were built per year, and under Federal control 1,000 per year have been constructed. During Government operation the physical property, rolling stock, and engines of the roads have not kept up with the needs of the public, notwithstanding the fact that since Government operation there has been appropriated out of the Federal Treasury $1,250,000,000 to be used in betterment of railroads.

Director General Hines, of the Railroad Administration, says that the Government now owes the various railroads, under existing guaranties of standard returns, $636,000,000, which will have to be paid this year out of the Federal Treasury. Thus for the two years that the Government has operated the railroads the people of the United States have been taxed $1,886,000,000 for the use of the Railroad Administration, and I do not believe the people have received service commensurate with this colossal expenditure.

It is estimated that in the next few years the roads will require $1,000,000,000 yearly for betterment and repairs; and if the Government retains them, this sum will be paid or advanced out of the Treasury, to be collected from the taxpayers, who are already overburdened with taxation. Under these conditions, I think it is of supreme importance that this conference report be adopted and the roads returned to private owners. I am sure it will be best for the taxpayers of the land, for when they are returned the Government will not be called upon to make additional appropriations, and taxes should be lowered. But it is said this conference report guarantees a fixed return of 6 per cent on the money invested in railroads for the period of two years. I again assert there is no such guaranty. The contention is made that the rate section of the bill gives such a guaranty. I quote the provision:

> SEC. 422. * * * (2) In the exercise of its power to prescribe just and reasonable rates the commission shall initiate, modify, establish, or adjust such rates so that carriers as a whole (or as a whole in each of such rate groups or territories as the commission may from time to time designate) will, under honest, efficient, and economical management and reasonable expenditures for maintenance of way, structures, and equipment earn an aggregate annual net railway operating income equal, as nearly as may be, to a fair return upon the aggregate value of the railway property of such carriers held for and used in the service of transportation: *Provided*, That the commission shall have reasonable latitude to modify or adjust any particular rate which it may find to be unjust or unreasonable and to prescribe different rates for different sections of the country.
>
> (3) The commission shall from time to time determine and make public what percentage of such aggregate property value constitutes a fair return thereon, and such percentage shall be uniform for all rate groups or territories which may be designated by the commission. In making such determination it shall give due consideration, among other things, to the transportation needs of the country and the necessity (under honest, efficient, and economical management of existing transportation facilities) of enlarging such facilities in order to provide the people of the United States with adequate transportation: *Provided*, That during the two years beginning March 1, 1920, the commission shall take as such fair return a sum equal to 5½ per cent of such aggregate value, but may, in its discretion, add thereto a sum not exceeding one-half of 1 per cent of such aggregate value to

make provision, in whole or in part, for improvements, betterments, or equipment which, according to the accounting system prescribed by the commission, are chargeable to capital account.

Under this provision the Interstate Commerce Commission is directed to group the various railroads of the United States into different zones. The commission is then to ascertain the actual value of the railroad properties in each zone, after eliminating all watered stock, and when the actual value of the property is ascertained the commission is to fix passenger and freight rates for each respective zone that will, with honest, economical, and efficient management, yield in revenue to the roads of the zone 5½ per cent. The Treasury of the United States guarantees nothing under this provision, nor is there any guaranty to any particular road that it will receive any fixed income. Under this proviso if a road makes 5½ per cent it keeps it; if it makes only 2 per cent, that is all it gets.

Some roads, notably in the South and West, under this provision will barely make enough to keep them out of the hands of receivers, while other roads in industrial centers and in the thickly populated sections of the country will make a much larger income than 5½ per cent. Therefore any rate that will let the railroads operate in the undeveloped sections of the country is too great a rate for those sections where there is great commerce. Hence the conferees in this bill propose to take from all roads half of their profits in excess of 6 per cent and give such excess to the United States to be used as a revolving fund by the Interstate Commerce Commission to be employed to stimulate the transportation system elsewhere throughout the United States. [Applause.]

Under the decision of the courts of our land no property can be confiscated, and the courts have held that while the Government has a right to fix rates of transportation in the interest of the public, they must fix such rates as will yield a fair return on the money invested to the owners of the common carriers. Any rate which does not do this is declared void by the courts of the land. The leading case which enunciates this doctrine is the case of Smyth against Ames, One hundred and sixty-ninth United States, and again, in the case of Budd against New York, One hundred and forty-third United States, the court held:

> While in the interest of the public the Government can fix rates for common carriers, this power does not give the Government the right to destroy nor compel service from the carriers without giving them reasonable compensation.

In my judgment, the public is vitally interested in having an efficient system of transportation. The Seaboard Air Line; the Central of Georgia; the Georgia Southern & Florida; the Atlanta, Birmingham & Atlantic; the Georgia, Alabama & Florida; the Hawkinsville & Florida Southern; the Albany & Northern; and the Ocilla Southern are the carriers operating in my district. Some of them are barely earning enough to keep out of the hands of receivers. If they are thrown back to their owners without legislation, a number of them will probably be junked and my people left high and dry without railroad facilities. My constituents are entitled to a system of railway transportation commensurate with their needs just as much as the great cities of New York, Chicago, and Philadelphia are entitled to it. It is essential to the public welfare that we have an efficient system of transportation functioning throughout the whole of the United States. Without transportation the farmers' crops in the fields would rot and go to waste, men, women, and children in the cities would die of starvation and freeze for want of clothing and fuel, industrial plants for want of coal would cease to operate and millions of people would be thrown out of employment, and our happy and prosperous land would be turned to one of distress and poverty. In my judgment, this conference report will insure such a system of transportation, continue the happiness and prosperity of our people, and I am going to vote for it. [Applause.]

In conclusion, I wish to say that I am paired with my good friend the chairman of the Ways and Means Committee, Mr. FORDNEY, who is called home on account of the critical illness of his daughter. When we paired he stated to me that he favored this bill, and that I would be at liberty to vote for it, because if he were here he would vote for it. Therefore I shall disregard my pair and vote. [Applause.]

Mr. SIMS. I yield 15 minutes to the gentleman from Illinois [Mr. DENISON], a member of the Committee on Interstate and Foreign Commerce. [Applause.]

Mr. DENISON. Mr. Speaker and gentlemen, I regret exceedingly that I can not follow the chairman of the committee [Mr. ESCH] and the other conferees in their views upon this conference report. I think the country is indebted to the gentleman from Wisconsin [Mr. ESCH] and to the other conferees on the part of the House for the conscientious and able services they have rendered in doing the very best they could to save the provisions of the House bill and report back an agreement that would meet the approval of the House. They had a most difficult task.

Of course, I take it that I am not in the position that the members of the conference committee are. I do not feel the same obligation to change my views, when I have positive convictions, as perhaps they do.

Before I proceed to discuss my objections to the conference report I want to make this statement in order that I may not be misunderstood. I do not quite agree with the gentleman from Indiana [Mr. SANDERS] in his broad statement as to what it means to oppose this conference report. I want to say that I never have been, and am not now, and so far as I can tell I will not be in favor of the Plumb plan or any part of it. I do not think it is American. I think it is really a soviet plan labeled with an American name, and therefore I do not approve of it at all.

Not only that, but I want to say that there is not a man in this House who is more bitterly opposed to the Government ownership or operation of the railroads than I am. Why, gentlemen, when the railroad-control bill was before the House I could see in it such a tendency toward Government ownership and was so bitterly opposed to that policy that I was one of two Republicans and two Democrats only in this whole House who stood up and voted against it. I am opposed to the Government ownership of railroads or any other business institutions. Let me tell you briefly just what this operation of the railroads by the Government has meant to the country. We have lost in operating expenses alone $854,423,434. In the last two months, since January 1, we have lost $207,646,434 in operating the roads, over $100,000,000 a month actual losses in operation. I think the railroads should have been returned to their owners long before now.

We have loaned and advanced to the railroads, or, rather, the railroads owe the Government, $938,615,551, which will have to be funded, and there are other investments made by the Railroad Administration in Liberty bonds, and so forth, on account of the operation of the railroads, of $93,283,900. So that adding these advancements and loans to the actual loss in operation it makes a grand total of $1,886,322,885 which the people now have invested in the railroads. Counting the $200,000,000 carried in this bill with what we have already appropriated makes the total appropriations for the railroads amount to $1,450,000,000. Deducting this from the amount already expended, $1,886,322,885, leaves a deficit of $436,322,885 which this Congress is going to be called upon soon to appropriate to finish up the debts of Government operation.

Not only that, but this bill authorizes the appropriation of $300,000,000 to loan to the railroads in the next two years, and a great deal more than that amount will be required before the time is up to supply their demands.

Not only that, but we are guaranteeing the standard return for another six months. My judgment is that if the losses in operation continue as they have in the last two months we will have actually lost in the operation of the railroads more than $1,250,000,000 before the guaranty period has expired.

I have not the slightest doubt that before the loan period of 26 months is over the railroads will owe the Government for loans and advancements as much as $1,750,000,000. So I figure that Uncle Sam will have $3,000,000,000 invested in the railroads, and not over $1,250,000,000 of it will ever come back, if that much.

So any man who is opposed to the immediate return of the railroads to their owners, in my judgment is not only using bad judgment but he is not thinking of the best interests of the Government or the people.

My respect for the good opinion of the Members of the House and of others who have made a study of this question prompts me to point out two or three unfortunate provisions in this bill and to state briefly my objections to them.

As a member of the committee that has had charge of the railroad bill, I have given the subject the best study I could since the hearings began in July and have reached certain conclusions in which I am positive and conscientious.

When the Esch bill was reported from our committee it contained a rule of rate making. In substance it directed the Interstate Commerce Commission to so adjust rates in the different rate-making districts of the country as to allow the railroads in the respective districts as a whole a fair return on their aggregate properties devoted to the public service, after making due provision for all proper costs of maintenance, operation, taxes, and depreciation.

To that the owners of the railroads are, I think, justly entitled. That far it is not only proper but under present conditions necessary to go in in order to secure the necessary capital

to rehabilitate and improve the transportation systems of the country.

But the House struck that provision out of the bill entirely and left it without any legislative rule or mandate to the commission for making rates. It was done over my protest. In addressing the House on that question I stated that if the House struck out the rule of rate making it would be striking the heart out of the bill as a constructive measure.

Now, the conferees have reported this bill with a rule of rate making that goes far beyond the provision of the original Esch bill, and consists of section 6 of the Cummins bill with slight modifications.

I am opposed to any guaranty by the Government of any particular return or income on private capital invested in any industry. I do not think it is necessary or wise. There are so many intricate questions of railroad valuation, railroad management, and railroad financing involved that Congress is not in a position to fairly and intelligently determine and fix by legislation the fair return of income on investment of private capital in the railroads of the country.

There is no valid reason why a fair return of capital invested in the railroads in the different rate-making districts of the country should be exactly the same or that it should be exactly the same from year to year. Investments of private capital in other industries or other securities do not yield the same returns in different parts of the country or in different years. People invest their capital in railroad securities just as they do in other industries with full knowledge of the conditions of the business, with the chance of loss and the hope of large returns before them. It is a mistake for the Government to single out investments of private capital in railroads from all other industries of the country and by legislation guarantee a fixed return on such investments without regard to any of the conditions which under natural economic laws determine the returns on all other investments. It is not only unwise but it is dangerous legislation. If we guarantee a fixed return on railroad investments for two years we will thereby blaze the trail and set the precedent for similar legislation by those that follow us. We will later be asked to do so for the years to come, and who knows but that we may be asked to do the same for investments of private capital in telephone and telegraph companies and other public utilities, in coal mines and other industries that are essential to public welfare.

The excuse for a legislative guaranty of income on such other investments may not now be as apparent as for investments in the railroads, but the principle involved is the same. It is paternalism pure and simple. A Congress might be elected that would think 7 per cent a fair return, or public sentiment might change and a Congress be elected that would think 2 per cent a fair return on railroad investments and legislation might be enacted guaranteeing that return. Congress should never attempt by legislation to even up and equalize the incomes arising from investments of private capital. Some investments in railroads have been wise and some unwise. Some railroads have been managed wisely and some unwisely. Some have been fortunate and others unfortunate because of natural conditions. Some have been honestly managed and some dishonestly managed. It is, I think, an unwise and dangerous policy for the Government to undertake by legislation to level up such investments by guaranteeing a fixed return. It is the first step toward socialism, and I am opposed to taking the first step in that direction. [Applause.]

Then, Mr. Speaker, I am absolutely opposed to section 312 of the bill. This section provides that the wages of all railroad employees and subordinate officers existing and in force on March 1 shall not be reduced before September, 1920. This in itself is innocent enough. Of course we all know, in fact, that the wages of railroad employees will not be reduced before September 1 next. I do not think they should be reduced before then nor after that time unless conditions of living should materially change. There may, in fact, be good reasons why they should be increased. But I am opposed to any law that purports to fix the wages of any class of employees in any industry. It is unwise and un-American and is another long step in the direction of socialism. The amount of wages that men should receive for their services ought to be determined in all cases by agreement between the employers and the employees. Wages should be determined by economical and industrial and social conditions. This can only be done by agreement between employers and employees. When wages are determined by the legislatures or by the Congress they will be determined by political conditions and considerations. It is a dangerous policy both for the Government and for the employees. [Applause.]

If we pass this bill fixing the wages of railroad employees for the next six months, more than likely we will be asked to fix them for a longer period, and this will be but the beginning of a policy that will again come back to mock us. We will receive demands from all sources for the fixing of wages, and the country should understand that if this law, which fixes the wages of the railroad men for six months, is approved, they may expect legislation in the future that will fix wages for a longer time or increase the wages of the railroad employees if a majority of the Congress should happen to be inclined that way.

On the other hand, the railroad men should understand that if they approve and accept this provision of the bill they may just as likely expect a reduction in wages by law, if public sentiment and a majority of the Congress should happen to be inclined that way. Such legislation is not in the interest of the public or of the railroad employees. As a friend of American workingmen I can not approve it. It is a dangerous precedent. It serves no good purpose in this bill and should not be enacted into law. [Applause.]

Right here I want to pause to say that, in my judgment, this plan here proposed for the adjustment of wage disputes is not workable. I do not think this so-called labor board will have very much to do. When a great wage question is to be adjusted, I think that the men will themselves try to adjust it by agreement with their employers, and if they can not do so they will not submit it to this board. Then what will be the result? The result will be possibly a great nation-wide strike will be threatened. And then the question will come right back to the President and to Congress and we will be asked to again fix the wages by law, in order to avert a strike; and you are setting a precedent for it now by fixing wages for six months in this bill. There is the danger. I am a friend of the railroad men, and I say this is a dangerous law for them and it is a dangerous law for the public.

I am opposed to all of the remainder of section 422 of the bill which contains the various provisions for the recapture or appropriation by the Government of the earnings of railroads over and above 6 per cent and the creation therewith of a general railroad contingent fund, to be used by the commission for transportation purposes, and particularly for aiding the so-called weak railroads. I think this is the most indefensible provision in the entire bill. It can not be justified by any sound principle of railroad economics or by any rule of morals, and in my judgment it clearly violates the fifth amendment to the Constitution by taking private property for public use without just compensation or due process of law.

Now, upon that question I want to say this: I think it is a dangerous precedent to start legislation here recapturing or taking over arbitrarily the excess profits of private capital invested in railroads.

Judge Hughes rendered an opinion to our committee suggesting that that provision of the bill would be absolutely unconstitutional and void. Now, let me put this question to you, which each must answer for himself: When a proposed law is presented to us and we form a conscientious conviction that that law would be contrary to the Constitution of our country, what is our duty? Oh, well, a Member told me a while ago that we have no right to consider our own conscientious objections when we come to a great question of this kind. I do not agree to that. Judge Cooley, in his work on Constitutional Limitations, states the rule that should guide us very clearly. He says that where a legislator has even a doubt as to the constitutionality of a proposed law, under his oath it is his duty to vote against it.

Then what is our duty when we have a positive conviction that a proposed law is unconstitutional? Must we just lay our convictions aside when we have taken an oath with our hand uplifted to Heaven that we will support and defend the Constitution? I can not do so. I believe this bill authorizes the taking of private property without due process or just compensation. I think Justice Hughes's opinion is sound. While I may not think he is a good politician, I have the highest respect for him as a judge and a lawyer.

Now, if I am anything at all I am a lawyer, at least a country lawyer. I have devoted my life to the study of law, and I believe, as firmly as I believe any legal proposition, that this provision of the bill is contrary to the Constitution of the country and therefore I can not vote for it.

Mr. SUMMERS of Washington. Will the gentleman yield?

Mr. DENISON. Yes.

Mr. SUMMERS of Washington. Is there any difference in effect between this proposed law and the income-tax law?

Mr. DENISON. There is a great deal of difference. The Government has a right to take excess profits by a tax for Gov-

ernment use, but that is only justified, in my judgment, as an extreme measure in time of war, and then the tax must be general and apply to all persons alike. This bill does not provide an excess-profits tax; it is nothing more nor less than the Government arbitrarily putting its strong arm into the earnings of the railroads that happen to have used foresight, that happen to have used good judgment, that happen to have used economy, that happen to have used brains, and happen to have been honest in their management. This bill would penalize a company of that kind, penalize the men and women who have money invested in a company of that kind, take away their earnings that they have made by rates just and reasonable, and put them into a fund—sort of a railroad jackpot—in order that the Government may take it and loan it to the poor roads that have been perhaps dishonestly or improperly or unfortunately managed to help them out. I do not believe that is constitutional, wise, or moral, and I can not vote for it. [Applause.]

Under the law the Interstate Commerce Commission has no power to prescribe any rate for transportation upon any railroad that is not in itself just and reasonable. If any railroad should charge any rate for transportation that is not just and reasonable, it could be made to refund it to the injured shipper. So that it must be assumed that all rates that are filed by the railroads and approved by the Interstate Commerce Commission are in themselves just and reasonable. And every railroad company is justly entitled to retain all it can earn for transporting passengers and freight at rates that are in themselves just and reasonable.

Now, railroads can not charge what they may choose for their services. They can only charge such rates as are approved by the Government, acting through the Interstate Commerce Commission, and such rates as are found by the commission to be just and reasonable.

Nor can the railroads determine what traffic they will handle. They are compelled by law to transport all traffic that is presented to them for transportation.

Nor can the railroads determine for themselves what equipment they will furnish for transportation purposes. Under the acts of Congress and the regulations of the State commissions and the laws of the various States the railroads are required to furnish adequate facilities of the latest and best approved type.

Nor can the railroads manage their properties as they would choose. They are compelled by the laws of Congress and of the various States, enacted in pursuance to the police powers thereof, to furnish all manner of safety devices, not only for the safety of the public but of the employees and passengers and the property they are transporting.

So that railroad companies have few rights in connection with the management of their own properties and no opportunity for the profitable employment of the capital they have invested unless, by the use of economy and good judgment in the management and operation of their properties, they can do a large business under the conditions which the Government has prescribed for them. It is unfair to those who have invested their money in the railroads to arbitrarily deprive them of the fruits of their economy and good management. It is wrong in principle for the Government to arbitrarily take from a railroad company any part of its earnings that it has made from rates which are just and reasonable.

This bill does not guarantee to each individual railroad an income of 5½ or 6 per cent, or any income at all. It only guarantees an income of that amount on the aggregate property of all of the railroads in the different districts that is held and used in the service of transportation. So that those who invest in railroads do not know whether they will get any income from their investment or not. At least there is no assurance of that fact from any of the provisions in this bill. On the other hand, the bill does take the excess earnings over and above 6 per cent from each particular railroad. So that if this bill becomes a law, those who will hereafter wish to invest in railroad stocks will know that under no circumstances will the companies be allowed to retain over 6 per cent. In my judgment such a law will destroy the inducement for private capital to invest in railroad securities. It will destroy the inducement for economical management of railroads. It will encourage waste and extravagance in the equipment and management of railroads, and will tend to injure and retard rather than to improve and develop the transportation service of the country.

The earnings of a railroad company from rates that are just and reasonable are the property of the company. The Government has no more right to arbitrarily take its earnings from rates that are just and reasonable than it has to take its physical properties. It can not do so under the fifth amendment of the Constitution without just compensation or due process of law. This bill provides for neither.

These so-called excess earnings are not taken by the levy of an excess-profits tax. That, of course, could be legally done. If that were done, the money would have to be paid into the Treasury of the Government and could be paid out only by an appropriation by Congress, as I have already stated.

They are not taken under the guise of an occupation or a license tax. The railroads are incorporated and operated under the laws of the different States. They are not creatures of the Federal Government. The bill simply authorizes the Government to arbitrarily take over or recapture the excess earnings of the railroads without giving any consideration therefor, and it seems to me that nothing could be plainer than that such a law will be unconstitutional and void.

There are many railroads in this country that have been improvidently built. Others have been extravagantly and wastefully constructed and managed. Others have been exploited, while still others have been built in fortunate parts of the country where population and industries have increased and they have been constructed and managed economically. The result of these divergent conditions has been that there are poor roads and prosperous roads and in the very nature of things this must naturally be so. But the people who invested their capital in the railroads all did so for the same purpose. It was not out of a spirit of patriotism or of charity that capital has been invested in railroads. People make such investments because of the chance and the promise of profits. Some must lose and others must win. But it seems to me wrong in principle for the Government to undertake to make all such investments equally profitable and especially to arbitrarily take the earnings from the prosperous and well-managed roads and use it for the benefit of the exploited, the unfortunate, or the poorly managed roads.

Moreover, I think it is a dangerous precedent. If the Government can arbitrarily take over the profits of the railroads over and above 6 per cent and use them for special purposes, it can take the profits over and above 2 per cent. Upon the same principle the excess earnings of telegraphs and telephones and other public utilities could be taken over. And if this kind of legislation is begun, it will be followed by other legislation of the same kind and, in my judgment, the results of it will come back to mock us. It is another step toward socialism and we should hesitate before we take it.

If the Government begins taking over the excess earnings of the railroads and using them for special purposes, as provided in this bill, it will lead, just as sure as time passes, to Government ownership of the railroads, and in my judgment some of those who have advocated this policy and have forced it into the bill are at heart believers in Government ownership of railroads.

I regret that the conferees on the part of the House found themselves compelled to incorporate such a provision in the bill. [Applause.]

Mr. Speaker, I desire to insert here at the close of my remarks a part of the opinion of Judge Hughes on the constitutionality of section 6 of the Cummins bill, which is the same in substance as the provision of this bill that I have just discussed.

JUDGE HUGHES'S OPINION.

It should be observed that this requirement is not made as a condition for the exercise of any franchise granted to the carrier by the Federal Government. It is to be considered in its application to carriers chartered by the States and entitled to engage in interstate commerce on compliance with such regulations as Congress may constitutionally prescribe. Under the doctrine of the recent decision in Hammer *v.* Dagenhart (247 U. S., 251), the right to engage in the business of transporting passengers, or of ordinary and wholesome commodities, between the States, while subject to appropriate regulation, may not be deemed to be subject to the absolute prohibition of Congress and hence is not to be regarded as a privilege to be granted on any terms Congress may see fit to impose.

Nor is the requirement with respect to "excess" earnings imposed as a condition of the enjoyment of any guaranty as to earnings which has been given by the Federal Government and accepted by the carrier, thus constituting a contract governing the carrier's operations. The carrier still must take its risk of losses. If it be said in a general sense that the provisions as to rates constitute a guaranty of proper and adequate rates, this is no more than the promise of the reasonable exercise of the power of regulation. There is no benefit conferred upon the carriers under the bill which can be regarded as justifying an exaction which otherwise could not be enforced.

Further, the requirement as to the payment of "excess" earnings does not purport to be imposed under the taxing power and in my judgment could not, in its present form, be sustained as a valid tax independently of the power of regulation. It would seem to be clear that the constitutional authority which would be invoked in the enactment of this legislation would be solely the power of Congress to regulate interstate commerce.

The general principles governing the constitutional authority of Congress to regulate interstate commerce are not open to dispute. It is a power to foster, to protect, to conserve; to prescribe the rules by which

interstate commerce shall be governed. It unquestionably embraces a broad authority to deal with all phases of transportation in interstate commerce and to govern the instrumentalities of that commerce, including the relation of carriers and their employees, as illustrated by the hours-of-service act, the employers' liability act, and the Adamson Act as to hours and wages. (Baltimore & Ohio Railroad Co. *v.* Interstate Commerce, 221 U. S., 612; Second Employers' Liability Cases, 223 U. S., 1; Wilson *v.* New, 243 U. S., 332.) It is also well settled that the exercise of the power may be in the nature of police regulations. (Lottery Case, 188 U. S., 321; Hipolite Egg Co. *v.* United States, 220 U. S., 46; Caminetti *v.* United States, 242 U. S., 470.) But in the most extreme applications and under the broadest definitions of this Federal power it has been recognized that it is not an unqualified or arbitrary power. It must be exercised subject to the limitations of the fifth amendment of the Federal Constitution prohibiting the deprivation of any person of liberty or property without due process of law. (Monongahela Navigation Co. *v.* United States, 148 U. S., 312, 336; Clark Distilling Co. *v.* Western Maryland Railway Co., 242 U. S., 331, 332; United States *v.* Cress, 243 U. S., 316, 326.)

The broad legislative discretion of Congress with respect to rates of transportation is thus subject to the limitation that the rates shall not be made so low as to be confiscatory. (Wilson *v.* New, 243 U. S., 332, 349, and cases there cited.) And aside from the imposition of confiscatory rates, the power to regulate does not justify the assertion of arbitrary control, however excellent the motive; that is, an exercise of power not appropriate to the subject. (Adair *v.* United States, 208 U. S., 161, 178, 180; Interstate Commerce Commission *v.* Chicago G. W. Railway Co., 209 U. S., 108, 118; Southern Pacific Co. *v.* Interstate Commerce Commission, 219 U. S. 433, 444; Interstate Commerce Commission *v.* Louisville & Nashville Railroad Co., 227 U. S., 88, 91; Hammer *v.* Dagenhart, 243 U. S., 251, 270, 276; Wilson *v.* New, 243 U. S., 332, 346.) As was said in Wilson *v.* New (243 U. S., 332, 346, 353), "It is equally certain that where a particular subject is within such authority the extent of regulation depends on the nature and character of the subject and what is appropriate to its regulation."

Having these general considerations in mind, the validity of the provision of the pending bill as to the disposition of so-called "excess" earnings may be considered in the following aspects:

First. On the assumption that the rates as fixed by the commission, under which the "excess" earnings have been realized, are just and reasonable rates.

It is to be borne in mind that rates fixed by competent legislative authority, which are not found to be confiscatory, are presumed to be just and reasonable and that the courts do not interfere with the exercise of the legislative discretion, whether it be exercised directly by Congress or through its subordinate agency in accordance with the standards which Congress fixes (Minnesota Rate Cases, 230 U. S., 352, 433; Wilson *v.* New, 243 U. S., 332, 349).

Section 6 of the bill provides that "rates of transportation shall at all times be just and reasonable." It is provided in section 1 of the bill that rates, fares, and charges in force at the time of the repeal of the Federal-control act of March 21, 1918, shall remain in force until changed by competent authority. It is further provided in section 5 of the bill that schedule of rates, fares, and charges filed with the commission in accordance with the "act to regulate commerce" within 30 days after Federal control ceases shall become effective at the end of four months after they are so filed, with such modifications as may be ordered by the commission, and the commission is required within that time to determine whether they shall be modified "in order to make them fair, just, and reasonable rates for the service to be performed." It is further provided in section 44 of the pending bill, amending section 15 of the "act to regulate commerce," that whenever the commission, after a hearing either on complaint or on its own initiative, shall be of opinion that any individual or joint rate, fare, or charge whatsoever charged or collected by any carrier is or will be unjust or unreasonable the commission is authorized to determine what will be the just and reasonable individual or joint rate, fare, or charge to be thereafter observed, and the carrier is prohibited from making any charge which is in conflict with this determination. Thus all the rates fixed and maintained are at all times open to inquiry and the commission has full authority to insist that the rates shall never be more than just and reasonable compensation for the services which the carrier renders. Nor does the bill interfere with the reparation proceedings which may be entertained on the application of persons aggrieved by extortionate charges.

Taking all the provisions of the bill into consideration, it would seem that the rates as fixed and permitted to be charged and collected by the carrier, assuming that the rates are not confiscatory, should be regarded as just and reasonable rates fixed and maintained by competent authority. It is also to be observed that section 6 of the bill, providing for the payment to the Railway Transportation Board of the so-called "excess" earnings, does not provide for a determination that the rates under which the described "excess" has been collected by the carrier were not just and reasonable rates for the services rendered.

If, however, the rates thus fixed, charged, and received by a carrier are to be deemed just and reasonable for the services rendered the carrier is entitled to these receipts as its property, and the taking by the Government of any portion of these receipts (except under a valid tax) for general governmental purposes or for the benefit of other carriers would appear to be a taking of property contrary to the fifth amendment of the Federal Constitution.

Of course, a carrier may be required to render the service involved in its undertaking as a carrier. It may be required to spend whatever money is necessary to make such service prompt and adequate. Its conduct in the performance of that service may be regulated with respect to facilities for transportation, the hours of service of employees, standards of wages, liabilities for injuries, the health and comfort and safety of all persons concerned in the transportation, and the receipt, handling, and delivering of commodities transported, but the requirement of the use of money for the manifold purposes which may be embraced in proper regulation and the protection and conservation of interstate commerce with respect to the carrier are in connection with the performance of the carrier's service. In the present case it must be assumed that the carrier has met all its responsibilities under the law, has given all the required facilities, has observed all regulations as to transportation, employees, passengers, and goods, and has charged the just and reasonable rates established by law, and that the earnings that it has left are the proceeds of its reasonable contracts made in conformity with law.

I do not think that the provision of section 6 as to "excess" earnings can be sustained under the principle of the case of Charlotte, Columbia & Augusta Railroad Co. *v.* Gibbes (142 U. S., 386), and other similar cases, as to the placing of the expenses of governmental supervision upon the corporations supervised, or under the doctrine of the case of Noble State Bank *v.* Haskell (219 U. S., 104), relating to an assessment under State law upon State banks for a depositors' guaranty fund, or of the case of Mountain Timber Co. *v.* Washington (243 U. S., 219), with respect to required contribution for a workman's compensation fund in order to provide compensation for injuries resulting from the hazards of the business. The provision in the pending bill does not relate to the expenses of supervision. It is not an imposition in the nature of an occupation tax or a license tax. The assessment in the Noble State Bank case has been described by the Supreme Court of the United States as being in the nature of an occupation tax upon all banks existing under the laws of the State. (See 243 U. S., 245.) In the Mountain Timber case the contributions for the workmen's compensation fund were required under the general police power of the State and these contributions were levied upon all employers in the described hazardous occupations according to percentages fixed in proportion to the hazards of each group.

The provision of the pending bill is not a tax laid upon all carriers with respect either to gross receipts or net receipts or any other basis for the assessment of a tax, but is simply a requirement of the payment to the Government board of the "excess" earnings of a carrier which the Interstate Commerce Commission determines to be more than a "fair return" upon the value of its property. Such an exaction goes beyond the limits of any decision known to me, and if the rates under which the so-called "excess" earnings are collected by the carrier are to be deemed to be just and reasonable rates, fixed and maintained as such under the authority of law, I am unable to escape the conclusion that the requirement as to the payment of the so-called "excess" earnings of a carrier exceeds the constitutional authority of Congress as applied to carriers not transacting their business under a Federal franchise or contract imposing such a condition.

Second. It will doubtless be insisted, however, that the provision in question should be viewed in another aspect. It may be said that the rates under which the so-called "excess" earnings have been obtained are not to be deemed just and reasonable rates, and while they were charged and collected as such under authority of law, that the fixing of the rates as just and reasonable is only tentative.

The argument will undoubtedly be that the bill requires the division of the country into districts and the carriers into "rate-making groups," and that section 6 requires the commission to take a comprehensive view of the rate-making group and that the level of rates is to be determined with reasonable reference to average conditions. In viewing rates from the standpoint of their effect in producing revenue in any rate-making group as a whole, the commission is directed to take into consideration the interest of the public, the shippers, the wages of labor, the cost of maintenance and operation (including taxes), a fair return upon the value of the property in the group, and the requirements for additional capital in order to enable the carriers adequately to perform their duties to the public. Hence it will be said that the rates fixed or maintained as just and reasonable for the services in question are fixed with reference to a group of carriers, and that so far as any particular carrier is concerned the finding as to the reasonableness of the rates charged by that carrier must be deemed to be merely a tentative finding. It will thus be contended that what is meant by the provision as to the payment to the Government board of "excess" earnings is that no carrier shall be allowed to receive for its services more than what is subsequently determined by the commission to be a "fair return" upon the value of its property held or used for the service: that all rates allowed are subject in the case of each carrier to this ultimate determination, and that to the extent that the rates produce the "excess" earnings they are to be deemed to be unreasonable. In this view it will be urged that no carrier is to be regarded as deprived of earnings from reasonable rates, but only of the "excess" earnings under the rule of limitation: and that, further, as the amount which the particular carrier is permitted to retain is determined to be a fair return upon the value of its property, it can not be said that there is an abuse of the regulatory power of Congress.

This argument encounters serious objections:

(1) It apparently takes no account of the fact that the individual rates charged by the carrier or the joint rates charged by the carrier in connection with other carriers may have been separately determined, either upon complaint or upon the commission's initiative, to be just and reasonable rates for the services which the particular carrier renders. The provision as to the payment of "excess" earnings appears to apply in every case where "any carrier shall receive from operation in any year more than a fair return, to be determined by the commission, upon the value of its property," even though the particular rates charged have been sustained, upon hearing, as just and reasonable.

It is difficult to understand upon what theory of proper regulation such rates are to be deemed to be unreasonable without any further inquiry as to the conditions of the service or as to matters directly relating to the rates themselves, but solely upon an inquiry with respect to the value of the carrier's property and the amount of the total net earnings derived by the carrier from its operations. The latter may be a legitimate inquiry for a court in determining whether a legislative body or its subordinate agency has transcended its authority in fixing a body of rates so low as to be confiscatory. But it is a different thing thus to conclude that rates which are not confiscatory, and which as individual or joint rates have been expressly found in the case of the particular carrier to be just and reasonable for the services rendered, were in fact not reasonable rates.

(2) Moreover, whether the rates which have produced the so-called "excess" earnings of the carrier have or have not been sustained in proceedings under section 15 of the "act to regulate commerce," as amended, with respect to the individual and joint rates of the particular carrier, the fact remains that the rates charged and collected have been fixed and maintained as just and reasonable rates, and that the bill does not require as a necessary preliminary to the required payment of the "excess" that there should be a finding that the rates were in fact unreasonable rates. The only finding required is that a particular carrier has earned more than the amount which the commission determines to be a "fair return" upon the value of its property held or used for the service.

The argument in support of the provision seems to assume that Congress, under the guise of regulating rates, either directly or through the commission, can abandon the fixing of what are reasonable rates for the services rendered by the carrier, and without any determination that the particular rates or the tariff schedule of a carrier are unreasonable, take the earnings of a carrier simply upon a determination that the carrier has received an "excess" over a "fair return" upon the value of its property.

This would appear to be not a regulation of rates, or of service, but of earnings. I do not understand that it is within the authority conferred upon Congress to regulate interstate commerce to determine how much a carrier not exercising a Federal franchise, or operating under a

Federal contract, shall earn in interstate commerce, assuming that the carrier discharges all the public obligations incident to its service and charges reasonable rates. In my view, the regulation of such a carrier must have direct relation to the services it renders, and if the question is of the amount of money it should receive for its service, to the reasonableness of its charges.

(3) Again, if the assumption could be indulged that the finding that a carrier has received more than a "fair return" is to be regarded as tantamount to a finding that the rates which produce the "excess" earnings are unreasonable rates, and that such a finding without an inquiry with respect to the rates themselves, but only as to earnings, could be sustained, there would be a further difficulty.

I lay on one side the question of the propriety of treating rates as being reasonable as to one carrier and as being unreasonable as to another carrier with respect to substantially the same services under similar conditions.

Assuming that it is the intent of the provision that the rates producing the "excess" earnings in the case of a particular carrier are to be deemed to be unreasonable as to that carrier, there is manifestly a question beyond that of the right of that carrier to complain. As I have said, the provision applies to "excess" earnings received under rates, although these may have been sustained as just and reasonable after full hearing in proceedings instituted on the complaint of shippers or on the initiative of the commission itself. The rates as originally fixed may have been sustained and shippers denied reparation. Or the rates as originally fixed may have been modified and the rights of shippers to reparation determined accordingly. Still, notwithstanding the rates are finally fixed and enforced as against shippers, the provision assumes the right to take the "excess" earnings obtained under such established rates on the theory that such rates are to be deemed unreasonable. Manifestly, in such case, the question of the validity of such a provision in the exercise of the regulating power is not exhausted by the mere consideration of what amounts to confiscation of the carrier's property.

Unreasonable rates constitute an unjust exaction from shippers or passengers. The rates maintained by Congress, or under its authority, in the exercise of its power of regulation of interstate commerce, are lawful because deemed to be reasonable, a presumption which the courts entertain, so long as the rates lie within the range of legislative discretion. But if we proceed on the assumption that the rates which are actually charged are extortionate, it would appear to be an abuse of the regulating power of Congress to enforce them. Congress, it may be said, could not, under the guise of regulating interstate commerce, compel shippers or passengers to pay confessedly extortionate charges for the services rendered. On the hypothesis that the charges are unreasonable, the power to authorize them, no less than the power to collect them, falls. The exaction and maintenance of such charges would deprive shippers and passengers of their property without due process of law.

But it may be said that the rates which produce the "excess" earnings are to be regarded as unreasonable only with respect to the carrier under the rule limiting its aggregate earnings, but that at the same time the rates maintained with respect to the persons paying the rates are to be regarded as reasonable as to such persons, and that the reasonableness of the rates with respect to shippers or passengers, although the rates are deemed to be unreasonable with respect to the carrier, may be sustained because they are based on average conditions and because of the use of the "excess" earnings for the benefit of shippers or passengers generally in aiding weak systems of transportation which are public utilities.

I regard this as a fallacy. I do not understand that rates charged by a carrier for the services it renders can properly be regarded as unreasonable with respect to the carrier and at the same time as reasonable with respect to those who pay the rates. The question of the reasonableness of the rates is essentially a question whether the charge made by the carrier and paid by the shipper or passenger for the service rendered is a charge which the shipper or passenger should pay to the carrier and the carrier should receive for that service. If it is established that the rate is a reasonable one for a shipper or passenger to pay, it is the carrier that renders the service for which the rate is to be paid, and it is proper that the carrier lawfully performing the service and furnishing all the required facilities therefor should receive and enjoy the proceeds of the rate thus charged. An attempt to divest the carrier of any portion of its earnings thus obtained, on the theory that the charges which it was reasonable for shippers and passengers to pay for its services it was unreasonable for the carrier to receive and retain would, in my judgment, be outside the scope of appropriate and valid regulation. The mere fact that it is proposed to devote the moneys or property of a carrier or of any other person to good uses can not be regarded as justifying the deprivation of the carrier or such person of the right to enjoy and retain his own property, except as it may be taken for proper governmental purposes through valid taxation or for public use on the payment of just compensation.

For the reasons stated I am constrained to the conclusion that the provision in section 6 of the pending bill as to the payment of "excess" earnings in its application to carriers not operating under a Federal franchise or contract permitting the imposition of such a condition violates the Federal Constitution.

I remain,

Very respectfully, yours,

(Signed) CHARLES E. HUGHES.

Mr. WINSLOW. Mr. Chairman, I yield five minutes to the gentleman from Maryland [Mr. COADY].

Mr. COADY. Mr. Speaker, I listened with a great deal of pleasure and admiration to the manly, courageous statement made by the gentleman from Georgia [Mr. CRISP]. [Applause.] It was not surprising to me, however, for I know him to be a man of moral and political courage. There was never a time in the history of this country when we needed more than we need to-day men of that type. I think the time has come when we should vote for these measures on their merit, irrespective of the pressure that may be brought to bear upon us. When principles are involved, men should stick to those principles regardless of political criticism and regardless of the political effect it may have on their future. As for myself, I had rather be thrown into the political scrap heap than to vote against the splendid constructive piece of legislation before the House at this particular time. [Applause.]

I want to say, however, that no undue pressure has been brought to bear upon me from any quarter. Whatever letters and communications I have received in opposition to this bill have been couched in proper language. No effort has been made to intimidate me in any way at all.

The President of the United States has by his proclamation designated March 1, 1920, as the day upon which Federal control of the railroads shall terminate, and these vast properties shall then be returned to their owners for their private operation and control.

Since the assumption of control by the Government the railroads have been, and are now, running at a great loss. Their owners could not now take them back without legislation such as is set forth in this conference report without suffering bankruptcy. Therefore if Congress fails by the end of next week to pass this constructive legislation, and the President does not further extend the time of Federal control and operation, financial ruin and disaster will overtake the roads, and the responsibility will be yours and mine. Are we willing to assume it?

The conference report now before us for our action presents, I believe, a satisfactory solution of the many difficult and grave problems growing out of Federal control. No plan will prove successful unless it makes a provision for adequately financing the roads in order to enable them to get sufficient equipment and to make needed betterments and extensions.

This bill contains such a plan. It tends to safeguard the credits of the roads, to improve their service to the public, to prevent destructive competition, and to correct abuses of the past, and is designed to be fair to the employees, as it should be. The just claims of labor will be taken care of.

We need the facilities of transportation, and the roads must have money to give them; but this money will not be forthcoming unless the public, which is expected to furnish it, is given some assurance of a fair and reasonable return on its investment.

I could not present the case for a return of 5½ or 6 per cent better than to quote from an interview given by Mr. Commissioner Clark, of the Interstate Commerce Commission, and printed in the Baltimore Sun of January 28 last. Mr. Clark is the oldest member of the commission in point of service and an authority of the highest standing.

He said, among other things:

It is a matter of common knowledge that the operating expenses of the railroads of the country have increased in much larger proportion than their revenues. The first heavy increase in the wages of the railroad employees was made retroactive for six months or for one-half of the first year of Federal control; whereas the increase in rates was applicable only to the last six months of that year. Putting aside the question of the relationship between the wages and revenues for that year, and considering merely the calendar year just closed, the figures show that the operating ratio has been over 85 per cent. That means that out of every dollar received in revenues 85 cents has been paid out in operating costs, leaving 15 cents to cover taxes, interest on funded debt, and return on other investments. No railroad could operate successfully under such a ratio.

CAN NOT HAVE TWO RATES.

Now that the question comes as to whether we shall have by legislative direction a standard or recognized, reasonable level of rates. That proposition is contained in section 6 of the Senate bill. Our experiences of the past show that for an accumulation of many reasons, including advantageous location, wise administration, and popular management, some of the roads are very prosperous, and others are not, under the same level of rates. The unprosperous roads are important to the communities they serve and could not be abandoned without irreparable injury to many industries in these communities. They can not charge higher rates than the prosperous roads under competition, as that would be the surest way for them not to get business. The great mass of tonnage moves along the line of least resistance in the way of freight rates. Therefore, if increased rates are to be given to the unprosperous roads that need them, they must also be given to the prosperous roads which do not need them.

The only way that the unprosperous roads can be afforded real relief is by fixing a limit on the amount which the more prosperous roads may retain out of their earnings under the established rates. Some say that this is unconstitutional. But I do not see any great difference in principle between that proposal and the policy we have been pursuing in other directions. For example, we have been collecting excess profit taxes on the one hand and lending money in farm loans on the other; or, we have been collecting income taxes graded in percentages according to the size of the individual income.

Moreover, the plan proposed is just what would result if a single corporation or the Government owned all the railroads. The aggregate revenues in that case would be spread over all the properties, although some of them would earn more than the average and some less.

5½ PER CENT NOT EXTRAVAGANT.

A return of 5½ or 6 per cent is certainly not an extravagant one. Figures which we have compiled and presented show that the return from rates in past years of class 1 railroads, which are the railroads having gross revenues in excess of $1,000,000 annually, have reached a trifle over 5 per cent on the book cost of the roads and equipment.

In the meantime the railroads of the country must continue to run under Government regulation. The fact that a plan presents some difficulties is no sound reason to condemn it, if the principles underlying it are right.

My information is that even this rate will be totally insufficient to enable the roads to pay dividends to their stockholders, and the best that can be done with it will be the payment of the interest on their bonded indebtedness. But it will insure the operation

of the roads under private ownership and control, and I believe this will prove to be the best thing for the shippers, the employees, and the public generally. [Applause.]

Mr. SIMS. Mr. Chairman, how much time has the gentleman from Wisconsin?

The SPEAKER. The gentleman from Wisconsin has 55 minutes remaining, and the gentleman from Tennessee 30 minutes.

Mr. SIMS. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. GARLAND].

Mr. GARLAND. Mr. Speaker and gentlemen, the Government took the railroads over during the war without any consent on the part of the owners or the men who worked for them and on them. There is no reason, to my mind, now that the war is over, why we should not give them back in the same manner. For 25 years the employers and employees were able to settle their own grievances without interference. It is true the conditions of the roads are such that the railroad owners must be helped in order to get them back into real operation and condition, and on that account I am for the bill so far as that is concerned. I would be for the bill if it went further in recruiting the railroads, but when it undertakes to interfere between the men who work on the railroads and their employers, that is a different thing. You have in this bill a provision that the public shall sit in all cases, and the public must be one of the board making the decisions, yet not one man in this Congress would want the public to come in and settle differences between himself and his personal employees. Some one says, "Oh, well, it is not compulsory." No; it is not compulsory, but everyone knows that a finding made by a board of the character provided for, in which the railroad operators and the public agree, the majority of the board, would be practically compulsory upon the men who work on the roads. There is no question about that. Everyone will agree to that.

When the Esch bill passed the House we had up a lot of amendments. Finally, it was agreed that the Anderson amendment was one that we could all vote for. It passed this House with a great majority. The conferees were appointed after the Senate passed on the bill and they came together. The bill now comes back to us with practically everything the Senate wanted in it and nothing in it as it passed the House. Are we to forego everything and let them decide all those things for us? I am for the Anderson amendment as it was in the Esch bill.

I would be for this entire bill if you would strike out in section 304 paragraph 3, and any other paragraphs where the same provision occurs, which means the public shall interfere in settling the affairs of the employees. I belong to an organization, and, as I said once before on this floor, for 40 years we have been able to settle our own differences between the employers and the employees without the assistance of anyone. If you bring in a third party, or intimate a third party may be brought in, not interested, there will not be any settlement.

The SPEAKER. The time of the gentleman from Pennsylvania has expired.

Mr. GARLAND. Mr. Speaker, I ask unanimous consent to print in connection with my remarks part of a letter from Mr. Lee, president of the Brotherhood of Railroad Trainmen.

The SPEAKER. Is there objection?

There was no objection.

The letter referred to is as follows:

GRAND LODGE BROTHERHOOD OF RAILROAD TRAINMEN,
Cleveland, Ohio, January 12, 1920.

Hon. M. M. GARLAND,
House of Representatives,
House Office Building, Washington, D. C.

DEAR CONGRESSMAN: I am exceedingly glad to receive your communication of the 8th, which is in reply to my letter of the 22d ultimo, in reference to the Anderson amendment of the Esch bill.

I hope, if the opportunity offers, you will make it clear on the floor that many of the locals of the different labor organizations may have written Congressmen or Senators, protesting against the Esch bill, as a result of information given out by the chief executives of their organizations in opposition to the original Esch bill as presented. I do not believe there is a local of either of the four transportation brotherhoods that would protest against the Anderson amendment to the Esch bill, but the Esch bill, as originally drafted, was referred to in special circulars by the undersigned, and our membership told plainly of the unfair principle contained therein. I am of the opinion the protests that you refer to from certain locals come as a result of such information given out prior to the adoption of the Anderson amendment.

Sincerely, yours,

W. G. LEE, *President.*

Mr. WINSLOW. Mr. Speaker, I yield five minutes to the gentleman from North Carolina [Mr. POU].

Mr. POU. Mr. Speaker, the condition of the transportation system of the Nation for some years has been steadily going from bad to worse. At this time, under Government operation, passenger service is very unsatisfactory, while freight transportation is nothing short of lamentable. It is contended this is unavoidable. Nevertheless, such condition exists. It can not be denied that some of the railroads at least, if not all, are largely responsible for the situation which now exists, and yet it can serve no good purpose now to attempt to fix the blame. The intolerable condition is here, and the American people demand it shall, if possible, be remedied.

The conference report provides for a fair, reasonable, just return to the invested capital. No fair-minded man ought to complain at a return of 5½ or 6 per cent. The American people who support the railroads will not complain, but the railroads may as well understand that promptness and efficiency in freight and passenger service must follow. No fair-minded merchant is going to complain if the railroads are permitted to earn 5½ or 6 per cent from the freight rate he is required to pay if he gets prompt delivery. The price of all commodities has advanced. No one expects freight and passenger rates to remain stationary, but those who travel and those who ship and receive freight have a right to expect more efficient service.

Mr. Speaker, to my mind the alternative is presented—take this report of the conferees or make ready for Government ownership. For my part I say, good Lord, deliver this Nation from Government ownership. Almost anything is preferable to Government ownership and Government operation of the railroads. Of course, it is the duty of every Member of this House to vote as if the result depended on that vote. Politics has no place in the consideration of such legislation. I am convinced if the railroads are returned to private ownership on the 1st of March without any legislation, as has been suggested, the most appalling financial disaster of recent years will follow. Almost all agree that some legislation is necessary to prevent a breakdown of the transportation system of the Nation.

To my mind the alternative is presented—take this report or take something infinitely worse. For these and other reasons I shall vote to adopt the report.

Something has been said about Wall Street dictating this report. I have served for 19 years with the gentleman from Wisconsin [Mr. ESCH]. When the new moon turns to green cheese, and not until then, will it be within the power of any man to dictate a report that JOHN ESCH writes as a conferee of this body. [Applause.]

Mr. EVANS of Nevada. Mr. Speaker, railroad legislation which empowers discriminating rates against inland points, giving advantage to points where land and water meet, can no longer be sustained by the statement that this is necessary to maintain the whole rate-making fabric.

The time has come to build upon the substantial structure of one national, mutual interest. We are proud of California, a great empire within itself. What kind of an empire would it be within itself if cut off by itself from mutual intercourse with all other States? It is the Union which makes that State great, and Nevada contributes her fair share. It is the duty of all the States to see that Nevada, still 90 per cent Government owned, has an even break in freight rates with coast points. We have great deposits of iron, running as high as 64 per cent, lying on the mountain sides, which will not move to market because of this discrimination; immense tonnages of copper which must lie dormant, while adjoining sections move their metals to reduction plants; hides, farm produce, and wool, which could be manufactured there into commercial products only for a discrimination which prevents factories locating within our State. Only a shortsighted policy of temporary sectional advantage stops progress. When will you learn that a rate which encourages development of Nevada will be your greatest source of profit? Nevada paid its portion for the Panama Canal. We oversubscribed our quota of the five Liberty loans by 130 per cent. Eight per cent of our population enlisted and went to war. You gentlemen all realize that freight rates can destroy competition. The great Comstock produced $600,000,000 of silver in Civil War times. Most of that enormous sum went to San Francisco. We of Nevada are proud of that city, which should be willing to vote for a rate enabling us to grow until they will be proud of Nevada. We ship great quantities of wool to Boston. The Pacific coast rate is $20. Our rate, 300 to 500 miles less over the same road in the same train, is just double, or $40. Give Nevada equal opportunity, confidence, and recognition of her honesty and ability to manage her own pursuits. There is wisdom in a course which will build up those inactive resources, turning our State into equal production with Wyoming, Idaho, and Oklahoma. Appealing to eastern men, this legislation can not become law without your sanction. Nevada belongs to New York, Ohio, New England, the Southern States, and the great farming section of the Middle West. You surely intend that it shall have an equal rate with points 500 miles farther away instead of a 100 per cent penalty. Will you, by inattention, vote to continue specific rates against your own

lands? Nevada demands equality; only this, and feel that we ask nothing much.

Even California should promote Nevada's welfare. Unless this plan is adopted it means that discrimination will continue holding Nevada to benefit coast States. Rail rates make it impossible for competition upon raw materials and finished goods, the difference being charged against our struggling industries to reimburse "out of pocket cost." Sugar is penalized in the same way. Astute rail managers are only waiting return of those grand properties to further fasten this inequality upon Nevada, which will prevent substantial investments for manufacturing, production, and developing 110,000 miles of almost entirely public domain.

Will not river and harbor points be content with colossal appropriations, stimulating development to an unheard of degree? While Iowa land has gone to $600 per acre, you should make it possible to develop Nevada land now lying neglected and overgrown with sagebrush.

While we are paying our proportion of the appropriations to rivers and harbors, in return we are discriminated against with rates prohibitive to production.

For more than 30 years rails have been permitted to destroy transportation on the great Mississippi, supported by residents there who were willing to wink at this injustice until now they find water transportation is needed. The natural waterways should be developed by rates protecting private investment in boats and terminals.

You gentlemen of the East must look ahead, taking the firm stand of mutual interest which will develop Nevada and inland water transportation.

Regardless of all representations you know there is injustice to charge double for a shorter than for a longer haul of the same commodity upon the same train, appealing to your sense of right and the future of all your country.

Calling your attention to shipping $50 per ton copper ore from a California point on the Western Pacific to the Utah smelters, 680 miles, is $7.80 per ton, while same ore from same point 182 miles to the Wabuska (Nev.) smelter is $10.50—680 miles to Utah is $7.80, 182 miles to Nevada is $10.50.

There is the case, four times farther miles hauled at one-fourth less cost. Thus Nevada enterprise is throttled under the fine phrasing of rate fabrics. These rate situations caused the recent action of States, as North Dakota.

The people of Nevada will not sanction renewal of an injustice so apparent.

Upholding the right of States to determine equality of freight rates as affecting themselves, we do not submit to differential treatment which promotes and builds other sections at our expense.

Your measure promotes not sound business but litigation. Guaranties encourage inefficiency. You have no right to guarantee returns upon any basis of value, and assuming aggregate value of rails, instead of fair present value, makes the error more apparent. Kansas City & Southern, covering 823 miles, scheduled at $104,000,000, Interstate Commerce Commission found reproduction value $48,000,000; considering depreciation, present value fixed at $40,000,000, or 38½ per cent of reported value. The Tonopah & Goldfield Railroad, 113 miles in Nevada, built some 15 years ago and unofficially estimated to have returned its cost net from the first year net operation, reported value $3,700,000; appraised by the Federal commission, reproduction value $2,180,000, present condition value fixed at $1,700,000, or 46 per cent of its reported value.

This measure means double prevailing rates, in and out, upon these lines, and illustrates what will befall the public everywhere. This measure is designed for the railroads and means look out for the cars. Any man or enterprise beware or be run over. Nowhere is transportation by water made possible or even recognized. It is a bill of, for, and by the railroads, wherein Congress authorizes Interstate Commerce Commission to disregard, annul, and set aside State rates and judgments of State courts, legislating an increase of $200,000,000 per annum above the Federal guaranty of $900,000,000 per year, based upon an average July 1, 1914, to June 30, 1917, three largest earning years the railroads ever had. No inducement there for efficient operation. A keen investing public by quotations places a total stock and bond value on all railroads not exceeding $10,000,000,000. Strike out the 5½ per cent provision and strike out the term "aggregate value" and insert "fair present value."

Your $20,000,000,000 estimates are based upon grand totals including duplications and without deductions for depreciation and destructions. Such calculations have no real value for reliable rate making.

Mr. WINSLOW. Mr. Speaker, I yield five minutes to the gentleman from Utah [Mr. WELLING].

Mr. WELLING. Mr. Speaker, this bill is in every way the most important piece of legislation which has been brought before the Congress since the close of the war. No other measure will be considered by the present Congress which compares with it in its far-reaching consequences upon the business and industry of our country. It has been more talked about in labor circles than any other measure which Congress has considered in a generation.

In order to determine our course in connection with this bill it is important that we should understand the history of railroad development in this country during the past 25 years. On the one hand the roads were exploited by a group of conscienceless speculators who cared little for the ordinary stockholder and nothing at all for a long-suffering public. These men were interested only in their own profits, and they left behind them a trail of watered stock and rusty rails.

In an effort to correct these abuses both the Federal Government and the States enacted laws curtailing the abuses of the speculators and placing many restrictions upon the growth and development of the roads. When the war came the railroads of America had been exploited by speculators on the one hand, and strangled by unwise Federal and State regulation on the other. Our railroads were like a great giant weakened by the avarice and selfishness of a group of remorseless leeches and bloodsuckers intent upon their own profit, and securely shackled by red tape and hampered by Federal and State restrictions. It became increasingly apparent as the war unfolded that the roads could not meet the needs of the Nation in these circumstances. The operators of the roads confessed their inability to meet the war emergency. They accepted the action of the President in taking over the roads during the war as an absolute war necessity. I have heard it said repeatedly that Government operation of the roads has been a dismal failure. I am not so sure that that is in any sense a just conclusion. Government operation has been expensive. No man can deny that. But private operation of the roads had failed—failed when the Nation most needed success. No man of intelligence will contend that the railroads could have succeeded under private management during the war period, without at once being released from the unwise restrictions of a generation of exploitation and mismanagement in the past. To correct those evils cost money. To correct them during the turmoil and strife of war cost vastly more money than it might otherwise have cost. But high as that cost has been, I believe it will be a profitable investment to the American people if it has taught us how to confront and solve this great problem in the public interest at this time.

The pending bill is an effort to meet that requirement. It has occupied the attention of the great Committee on Interstate and Foreign Commerce for a full year. The President had notified the Congress more than a year ago that he intended to turn the roads back to their owners on January 1 last. As that date approached it became perfectly apparent that the legislation making the transfer could not be framed by that time. Yielding to the legislative demand for additional time the President has designated March 1 as the final date of such transfer. The matter must be decided then. This legislation, already too long delayed, must be made operative by that time. Otherwise there will be demoralization and confusion in every conceivable branch of the service.

That demoralization would reflect itself most unhappily upon the public who use the roads, but it would also react with stunning force upon every laborer and every stockholder upon the entire system.

I have been told repeatedly that it was the wise thing politically to vote against this bill. I am not greatly concerned about that, but I have been profoundly anxious to solve the matter in so far as my vote is concerned in the interest of my country and the welfare of the people I represent. Any man who feels that he is at liberty to traffic with this great and vital problem for personal and political gain places himself in an indefensible and a contemptible light before his fellow countrymen. [Applause.] "For what shall it profit a man if he shall gain the whole world and lose his own soul?" Personally I shall vote upon this bill without regard to the importunity of any man or group of men who may have their own interest to serve. My duty as a representative of my State is to express the enlightened judgment and the public sentiment of my constituents, regardless of how it may affect my personal fortune. I feel doubly fortunate at this time in the profound conviction that their conclusion accords with my own well-settled views.

I have never studied a question before the Congress with more disinterested and fixed concern, and I have come deliberately to the conclusion that this bill offers the only sane and practical solution of the problem thus far presented. What do gentlemen who oppose this legislation propose? Have they a policy to recommend or a plan to be carried out? Do they favor Government ownership of railroads, or do they desire the present indefinite and expensive continuation of Government operation?

Labor has been perfectly frank and honest in its position. It presented the so-called Plumb plan, and has advocated that solution from the beginning. The Plumb plan was considered by the committee and rejected. It would have been rejected by the Congress. Failing in this, the great labor movement now seeks to continue the present system of Government operation for an additional two years. I believe, on the other hand, that the people of my State demand that the roads be returned to private management and control without delay, and I shall vote to bring that about by assisting to pass this legislation. In taking this position I am in no sense antagonistic to the interests of labor. The rights of labor were never so carefully safeguarded before as in this legislation.

We provide here for railroad boards of labor adjustment to be appointed mutually by the carriers and the employees. There can be as many such boards as the necessities of different groups or systems may demand. That gives the carrier and the employee their opportunity to meet and solve their differences without resort to outside interference or control. If these railroad boards of labor adjustment fail, then we have set up in the bill a labor board appointed by the President and paid from the Public Treasury, whose duty it is to pass upon questions of wages and working conditions. This is in effect a great labor court. It has both original and appellate jurisdiction. Composed of a fair proportion of men chosen by labor itself, I am ready to believe it will be just to labor. What more can labor reasonably demand—to be given an opportunity to agree with the carriers by mutual consent or, failing in this, to be heard in a court of its own choosing? It seems to me that in the labor provisions of the bill the committee has been just to labor and treated their problem with notable fairness.

The railroads of to-day are public utilities. They serve all the people, and they serve them in the most vital way. The employees of this great system must be contented and well paid, but they must not be permitted on slight provocation or in time of stress to tie up this vital artery of the commercial life of the people. I believe the committee has performed a notable service to the Congress and to the country in bringing out this measure, and I support it as the most satisfactory and feasible solution of the problem thus far presented for the consideration of Congress upon this subject. [Applause.]

Mr. SIMS. Mr. Speaker, I yield five minutes to the gentleman from Louisiana [Mr. SANDERS].

Mr. SANDERS of Louisiana. Mr. Speaker and gentlemen of the House, there is one thing that I desire to call to the attention of the membership in regard to this measure. The report that comes from the conferees consists of 121 printed pages. The only thing that is left of the Esch bill as it passed the House is the enacting clause. The only thing that is left of the Cummins bill as it passed the Senate is the enacting clause. The conferees wrote an entirely new bill, and that bill, as I say, consists of 121 printed pages. This report was received by the membership of this House last Wednesday evening. You and I have had Thursday and Friday to look into its provisions, and I state that there is not one Member of this House, with possibly the exception of the five conferees, who knows what the report means or what the provisions are. You may know one section, I may know another, but it is a physical and mental impossibility for any Member to say that he understands this report and knows what it means to the American people.

There is no brain so alert, there is no intelligence so quick, there is no diligence so earnest that will enable any man to take this report, technical in its terms, consisting of the volume that it does, and say that he understands and appreciates it in 48 hours; and I say that a grave and manifest injustice is being done to every Member of this House when we are asked to vote for or against it when we can not know what is in it.

I am on the committee that reported the Esch bill. I knew something of its provisions. I have studied this bill as well as I might in the two days that it has been in my possession. I claim to have ordinary intelligence. I know some of the provisions of the bill. You may know some of them. I do not know them all, and you do not know them all, and I doubt whether there is a man in the Senate or the House who can say that he understands to-day what this bill means in its entirety to the American people. It looks as though the Interstate and Foreign Commerce Committee has passed the bill to the House, that the House passed the bill to the Senate, and that the Senate has passed the bill, in order that it might go to conference, and that the conferees have confected a bill, and that you and I must take it, not understanding how it affects 110,000,000 people, not knowing what effect it might have in years to come. The study that I have been able to give to the report convinces me that it is bad, and therefore I am going to vote against it, because the sections that I have studied, the sections that I do understand, convince me that it has not been written in the interest of the 110,000,000 people of America. [Applause.]

In the limited time that I have it is impossible for me to do more than state the main objections that I have to this conference report.

The most sinister feature of it all to me is the obvious purpose of centralizing all power here in Washington, and the total destruction of the powers of the State, heretofore exercised through the State railroad or public utility commissions. The entire trend of legislation in the past few years has been to build up here in Washington great governmental machinery for the control of all the affairs of the people. This, to my mind, is fundamentally vicious. I believe that the closer the governmental authority is to the people the better it is, both for the people and for efficiency in government.

This conference report, in so far as transportation is concerned, absolutely wipes out every State line, nullifies State constitutions, repeals statutes of sovereign States, and robs the State commissions of all of the power that they have heretofore enjoyed under the constitutions, alike of the United States and of their respective States.

Another serious objection to the bill is that it does not provide funds for the operation of the present water transportation equipment owned and controlled by the Government. The conference report seems to hold out the promise of water transportation, and yet effectively strangles it.

The provision of section 422, constituting, as it does, a governmental guaranty of dividends upon private investment, is economically unwise, politically unheard of heretofore, and un-American in that it violates the principle of special privileges to none.

The conference report, by the operation of section 422, makes it obligatory upon the Interstate Commerce Commission to advance rates on freight and passenger traffic, and will further tax the American people from one to two billion dollars per annum, thus adding to the high cost of living and further burdening producer and consumer alike.

The passage of this conference report has been protested by the farmer, the shipper, the producer, and the laborer. Its passage has been urged by a well-organized and powerful lobby here in Washington. Its effect will be beneficial to the few and harmful to the many.

Transportation is vital to the people. I have always believed that rail and water and public road transportation should be coordinated in the working out of the transportation problem; that the needs and the necessities of the great body of the people should be the first consideration; and, believing as I do, that the welfare of the people is not properly safeguarded in this measure, I can not vote for it.

I recognize as fully as any man that most legislation is at best a compromise of conflicting opinions, and I realize that in the support of or opposition to measures one should be governed by what the effect will be upon the body of the people and not by his personal preferences.

Acting upon this principle and being governed by these convictions, I am forced to oppose this conference report, because it contains, in my judgment, more that is radically bad than of what is substantially good.

There are some provisions in the conference report that I would gladly vote for. Yet these good provisions are so far overbalanced by the bad that I can not give the measure my support. I will vote to recommit the conference report in the hope that the bad features may be eliminated by the conferees, and if the motion to recommit is not agreed to, I will then vote against the adoption of the report.

LEAVE OF ABSENCE.

Leave of absence was granted as follows:

To Mr. SUMNERS of Texas (at the request of Mr. LANHAM), for to-day, on account of illness.

To Mr. CLARK of Missouri, for to-day, on account of illness.

To Mr. STEAGALL (at the request of Mr. ALMON), indefinitely, on account of illness in family.

RETURN OF THE RAILROADS.

Mr. SIMS. Mr. Speaker, I yield two minutes to the gentleman from Kentucky [Mr. BARKLEY].

Mr. BARKLEY. Mr. Speaker, a few minutes ago during the remarks of the gentleman from Indiana [Mr. SANDERS], he

referred to the fact that I had declined to read in my time a letter which I had from the Director General of Railroads, Mr. Hines. I desire to say in explanation that at the time I made my remarks I had not received the letter from the Director General and only received it a few moments ago and concluded the reading of it. I desire to say that a few nights ago I was invited to a conference for the purpose of explaining some of the features of this bill. During the discussion I made the remark that the labor section of this bill did not represent the mature judgment of those who had framed it, and I referred to a fact which was true as carried in the newspapers of this city the day following the day on which the conference report was agreed to, that the substance of the labor section was redrafted by the Director General and adopted by the conferees. Mr. Hines this morning called me up and said that he was sending me a letter explaining his connection with it, because somebody had told him I said he was the original writer of the section, which I did not say, and I did not seek to create any such impression. He asked me to read the letter to the House, and I told him I would read it, but it did not reach me until after I concluded my remarks. I now ask unanimous consent to be allowed to insert in the RECORD the letter from the Director General to me in order that it may be understood.

The SPEAKER. The gentleman asks unanimous consent that the letter of the Director General be inserted in the RECORD. Is there objection?

Mr. CROWTHER. Mr. Speaker, reserving the right to object, and I shall not object, I would like to ask the gentleman if he did not make the direct statement the other night at that public meeting that this section was prepared by an outsider and accepted by the conferees?

Mr. BARKLEY. I did say that, and I still say that. The labor provision, as it is contained in the bill now, was drawn by Mr. Hines, as explained in his letter.

Mr. CROWTHER. That is what I wanted to know. And when asked who it was the gentleman stated it was Director General Hines.

Mr. BARKLEY. And I would not have made that statement except for the fact the newspapers had stated the same thing.

Mr. CROWTHER. But the gentleman also stated it was not the consensus of the judgment of the conferees or the mature judgment of the gentleman who wrote it, but still it was put in?

Mr. BARKLEY. Yes; I think I said that, because I had not had time to deliberate maturely, but sought to eliminate objections to what was submitted to him.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The letter is as follows:

UNITED STATES RAILROAD ADMINISTRATION,
Washington, February 21, 1920.

Hon. A. W. BARKLEY,
House of Representatives, Washington, D. C.

MY DEAR SIR: I am told that the impression has been created, as the result of a remark made by you in a recent conference of Members of Congress and others, that I originated the labor provisions in the railroad bill.

If this impression has been drawn from what you said, I am sure what you said was misconstrued, because I am satisfied any statement you may have made on the subject was accurate.

In order to prevent the possibility of the situation being confused and of the idea prevailing in any quarter that the labor provisions represent a policy originated by me instead of by Congress, I shall appreciate it if you will be good enough to read this letter to the House.

Through the courtesy of the conference committee, I received last Saturday a draft of the labor provisions, showing that the conference committee had definitely adopted two leading principles. The first was that there ought to be a wage board upon which the public, the employees, and the carriers would be represented. The other was that statutory provision ought to be made for boards of adjustment to deal with grievances.

I took the action of the conference committee on these two leading principles as indicating its final conviction that these two principles should be incorporated in the legislation. Taking this as the foundation for my consideration in the matter, I addressed myself exclusively to the question whether the details of the provisions agreed upon by the conference would satisfactorily carry out these fundamental principles.

In transmitting my suggestions to Senator CUMMINS I stated that "this redraft is not designed to propose any independent view of my own on this subject but is designed simply to take the general scheme of the draft as already agreed upon and modify it so as to incorporate therein the suggestions made in my letter of the 14th instant."

As to the wage board, I found that, while the conference had adopted the three-party principle—that is, representation of the public, labor, and carriers—it had provided for only one representative of labor and one of the carriers, as against three of the public. I therefore advised that a more satisfactory and reasonable application of the principle of three-party representation would be to have three representatives of labor and of the carriers, as well as of the public, making a board of nine instead of five.

As to the adjustment boards, I found that the provision agreed upon by the conference undertook to specify the organizations of employees which should be represented upon these boards, and would result that the board of adjustment which would pass upon grievances would be dependent upon that particular organization to which the employees belonged, thus producing a great deal of confusion and endless jurisdictional conflicts between different organizations. I therefore advised that the entire matter of boards of adjustment be left to the agreement of the carriers and the employees instead of being made rigid and inelastic by statutory specifications.

In the original draft which came to me I found that the boards of adjustment created thereunder were to handle not only grievances but wage matters also. My experiences with the railway boards of adjustment and with wage matters in the Railroad Administration convince me that it will be impracticable for such boards to handle both grievances and wage matters because of the enormous amount of work involved, and I therefore suggested that the adjustment boards devote themselves solely to grievance matters.

There were various minor features which I suggested. One was that a man ought not to be disqualified, as he was by the provision agreed on in conference, from being a public representative of the wage board because he might theretofore have been an officer or member of a labor organization or an officer of a carrier. I also advised that representatives of the employees on the wage board should not be required, as they were in effect by the provision agreed on in conference, to give up honorary membership in their labor organizations. I also advised that there be added to the standards provided in the provision which the conference had agreed to for testing the reasonableness of wages the further standard of correcting inequalities due to former wage orders and adjustments.

I requested our Division of Law to take the provision as agreed on by the conference and to make such changes therein as would be necessary to express the changes in detail which I above suggested, and I submitted this revised draft of the provision as agreed on in conference to the conference committee.

I think I should add that the draft of these labor provisions as it came to me provided that a dispute could be taken up by the adjustment board under several alternative conditions, which included among others a written petition signed by 100 unorganized employees or subordinate officials directly interested in the dispute.

I think it important thus to make it clear that the fundamental principles of the labor provisions are the principles agreed on by the conference committee, and that my action was simply to suggest changes in detail which in my opinion would make the principles already adopted by the conference committee more workable than they would otherwise be. Copies of my letters on this subject to the representatives of the conference committee are attached.

Sincerely, yours,

WALKER D. HINES.

Mr. WINSLOW. Mr. Speaker, I yield to the gentleman from Indiana [Mr. LUHRING].

Mr. LUHRING. Mr. Speaker, I desire to say in the beginning that after a careful study of this bill, and especially the provisions of Title III, I am convinced that it is the greatest piece of constructive legislation ever attempted by this or any other Congress, and I shall vote for it with supreme satisfaction. [Applause.]

It is my purpose in the brief time I have to discuss Title III of the bill—that part of the bill which deals directly with and provides the machinery for the settlement of labor disputes and difficulties. I was one of a number invited to the now famous caucus held the other night, and I responded to the invitation because I was advised that it was a Republican caucus called to consider the pending bill. However, I found that it was a caucus not as we understand the meaning of the word, but that it was a meeting called for the purpose of listening to the representatives of labor and hearing their objections to Title III. It was afterwards explained that those Members of Congress, both Democrats and Republicans, who had voted in favor of the Anderson amendment to the Esch bill were the only ones invited, and this invitation was extended to them on the theory that, having voted for this so-called Anderson amendment, they had shown a friendliness toward labor, and that therefore it was assumed by the leaders of the movement that these Members would at least give the representatives of the railroad employees a sympathetic hearing. This assumption was entirely proper and in my case absolutely correct.

Without going into the details of my past record with reference to labor matters, I can assure the laboring men of this country that whenever and wherever I have had the opportunity I always raised my voice in their behalf and always insisted that justice be done to them. To my surprise, Mr. Shea, who was spokesman for labor at this so-called caucus, absolutely failed to point out wherein Title III was unjust and unfair to the men he represented, and, while criticizing certain minor provisions of the bill and indulging in misleading generalities, he wholly failed to make any helpful suggestions or point out the way to a satisfactory solution. He concluded his statement with an appeal that the bill be defeated in its entirety. Practically the same position was assumed by Mr. Gompers, president of the American Federation of Labor. Mr. Gompers, however, denied that he was in favor of Government ownership or that he had ever been impressed with that proposition. He, however, did urge that Federal control be continued a little longer so that the Government ownership proposition could be given a fair trial in time of peace. He of course lost sight of the fact that the railroads have been operating under Federal control during peace times for over a year and that the results have been the same as when the country was at war. The main object or purpose of the meeting, as I gathered from the remarks of the representatives of labor, was to defeat this entire bill for the sole and only purpose of foisting upon the country Government ownership or some such fantastic plan as is embodied in the so-called Plumb plan.

I am opposed at this time to antistrike legislation. Not because I believe that the right to strike is a fundamental right guaranteed by the Constitution, but because it is the only court of last resort that has been provided for the settlement of labor disputes. The right to strike, as we understand it, is entirely different from the right to quit work. I freely concede the right of any man or set of men, becoming dissatisfied with their employment, to quit their employment. I do not concede the right of any man or set of men, for the purpose of compelling their employer to yield to their demands, to quit work. A strike in its simplest form is brought about by an agreement between certain employees to quit work in a body until such time as their employer will yield to their demands. It is force and duress and can very properly be characterized as blackmail. The same is true also of the lockout, where the employer, in order to compel his employees to yield to his demand, closes the doors and refuses to permit them to work, hoping to starve them out, so to speak, and thus compel them to grant his request. This, too, is blackmail.

But under the conditions now existing we have no right to deprive labor of its right to quit work in a body in order to secure justice and a recognition of its fair demands; not until we give to labor something in the place of a strike and provide a tribunal wherein sure and swift justice may be had. The pending bill goes a long way toward providing that tribunal. It, however, does not provide the means or the machinery to enforce its decisions. The right to strike remains unimpaired; in fact, the word "strike" is not used in any section of Title III. Some one suggested that it provides for compulsory arbitration, yet the word "arbitration" can not be found in the title, and while the provision gives jurisdiction to the labor board to settle disputes of all kinds, it does not by any means constitute that board a board of arbitration. Compulsory arbitration requires the disputants to submit the controversy to a board and compels them to abide by the decision of that board. There is nothing in Title III which even hints at the proposition that the disputants must abide by the decision of the labor board. The only means to be relied upon to enforce the decisions are that these decisions shall be given the widest publicity, so that the public may be informed as to the merits of the controversy.

I desire to review briefly the various sections of Title III so as to demonstrate the absolute fairness of the title in so far as labor is concerned. Section 300 defines the various terms used in the bill, and in subdivision 5 requires the Interstate Commerce Commission to define the words "subordinate officials" and plainly state the class and rank of the employees coming within the meaning of that designation. It must be remembered that a great number, over 100,000 employees, are not members of the four great brotherhoods and are not recognized by them. These employees include train dispatchers, railroad supervisors, storekeepers, claim men, auditors, trainmasters, and yardmasters. It is the purpose of subdivision 5 of section 300 to make provision for these men, it being the object of the title to provide for the settlement of disputes with each employee, no matter how humble or obscure his position or whether he is a member of a trade-union or not. No distinction is made between organized and unorganized labor.

Section 301 requires that the carrier and the employee meet in conference and in good faith attempt to settle their controversies. Section 302 provides for the voluntary establishment of railroad boards of labor adjustment. These adjustment boards may be established between the carrier and any employees, subordinate officials, or organization of employees. Under this section there may be an adjustment board of firemen, enginemen, conductors, and any other class or organization of employees and subordinate officials. This particular board has jurisdiction to decide any dispute involving grievances, rules, or working conditions.

Section 304 establishes a railroad labor board of nine members, three of whom shall be selected from the labor group, three from the carriers, and three to represent the public. This board not only settles disputes involving grievances, rules, and working conditions, but also decides disputes pertaining to wages and salaries. It is also given the right to suspend and review any decision or agreement reached in conference between the carrier and its employees respecting wages and salaries. This right to suspend and review is in the interest of the public, and for the first time the rights of the public, the rights of over 100,000,000 souls who pay the freight and rates, are given some consideration. Surely that great class should be represented, and it is eminently fitting that any decision by the labor board with respect to wages must be concurred in by at least one from the public group—one member of the board from the public group.

Their anxiety to protect the rights of labor and assure them that justice was being done prompted the author of Title III to write into the bill, and I believe very properly, that in determining the justice and reasonableness of wages and salaries and working conditions the board shall take into consideration, among other relevant circumstances: First, the scales or wages paid for similar kinds of work in other industries; second, the relations between wages and the cost of living; third, the hazards of the employment; fourth, the training and skill required; fifth, the degree of responsibility; sixth, the character and regularity of the employment; and, seventh, inequalities of increases in wages or of treatment, the result of previous wage orders or adjustments.

The other sections of the bill, 308, 309, 310, 311, 312, 314, and 315, provide for the organization of the labor board and confer the right to be heard in person and by counsel; grant power to compel the attendance of witnesses and the production of papers, and the right to examine books. Section 312 guarantees the same wages now being paid up until September 1, 1920.

A memorial has been presented to Members of Congress by the representatives of labor in which certain objections are pointed out to the provisions of the bill, and I now desire to examine briefly the objections and the reasons therefor. In the first place, it is complained that under paragraph 1 of section 304 the labor group must nominate not less than six nominees, but under the provisions of paragraph 5, section 300, nominations can not be made until after the commission has promulgated the rules and procedure for making such nominations. They point out that under the provisions of section 305 nominees must be selected within 30 days after the passage of the act and complain that no provision is made requiring the commission to promulgate regulations in sufficient time to permit the employees to comply with the provisions of section 305. It must be apparent that the various sections referred to must be construed together. The duty is clearly placed upon the commission to determine and define those who shall come within the meaning of the term "subordinate official," and this must be done within 30 days so as to enable the nominations to be made. The committee undoubtedly gave careful consideration to this question of time, and with their knowledge and the means of information at hand, no doubt very properly concluded that 30 days would be ample time in which to promulgate these various rules and regulations.

The President is given the power of appointment only when "the employees or carriers fail to make nominations and offer nominees in accordance with the regulations of the commission." Therefore it must be apparent to anyone that can read and understand the English language that the rights of labor can not be prejudiced by the failure of the commission to function within the 30 days. If they have not promulgated the rules and regulations, then labor can not be penalized for failure to comply with something that does not exist.

It is also complained in the memorial that special consideration has been given to "subordinate officials," and that by reason of this consideration a situation may arise that will result in the appointment of a labor board without a representative of the organized railroad workers on it. There is absolutely no substance to this objection, and it is entirely too chimerical to warrant serious consideration. The President is given the power to nominate the members of this labor board. These nominees go to the Senate for confirmation or rejection. Surely somewhere down the line justice will be done and the rights of all concerned will be protected.

Objection is also made to section 306, paragraphs A and B. This section prohibits the membership of any individual on the labor board who is an active member or in the employ or in the office of any organization of employees or any carrier or owns any stock or bond thereof or is pecuniarily interested therein. The labor board created by the bill is a judicial tribunal—certainly it is quasi judicial. A court or tribunal of that sort must not have among its membership any individual personally interested in the decision or the results of a decision that he is called upon to render. In a manner this labor board is constituted much as juries were constituted under the ancient common law. In olden times jurors were selected because they had knowledge of the facts in dispute and knew personally about the matters in controversy, yet in those days no one was permitted to sit on a jury who was an interested party, a litigant, or a complainant.

I have discussed Title III of this bill for the reason that all the correspondence I have received has been directed to the labor provisions. Every letter that I have received from the laboring man protests against antistrike legislation. On the other hand, every letter I have received from capital urged anti-

strike legislation. As I have clearly shown, the title in no manner prohibits strikes. While it does not prohibit strikes, yet it does protect the interests of the public by giving representation on the labor board.

I have studied the other provisions of the bill very carefully, and while, of course, it is impossible to satisfy all interests, yet I am convinced, as I have already said, that this is the greatest piece of constructive legislation ever attempted by this or any other Congress, and that it will go down in history as one of the notable achievements of the Republican Party. I have no patience with the so-called Plumb plan. This plan is made of the stuff that dreams are made of. I have no patience with Government ownership, and if this be my declaration of independence and if by voting for this bill I incur the enmity of labor and be accused of treason to them, then they must make the most of it.

I think I know and understand the laboring men of my district, and when any man or set of men assume to represent the views of over 2,000,000 men and seek to commit that great body of American citizens to the Plumb or any other equally fantastic plan, he has undertaken a task which is absolutely impossible, because it is a reflection upon the intelligence and patriotism of the great American public.

Mr. WINSLOW. Mr. Speaker, I yield to the gentleman from Connecticut [Mr. TILSON].

Mr. TILSON. Mr. Speaker, the bill brought in by the conference committee does not contain all that I should like to see in the law, but it is far better than anyone could expect under all the circumstances. In fact, it is a good bill and the committee is to be congratulated upon its work.

The only real or serious opposition to the acceptance of the conference report now seems to come from those purporting to represent the railroad employees and is ostensibly based upon the so-called antistrike provision. How any railroad employee can object to the mild and conciliatory terms of this section of the bill it is difficult to understand.

In the first place, every facility is provided for the settlement of possible disputes by boards chosen by the parties first directly concerned. Surely there can be no objection to this. If this means fails, an impartial tribunal is provided in the labor board, before which both parties may be heard. There should be no objection to this. When, after a full and fair hearing, the labor board finally decides as to what is fair and just, it can make public its award in the case. No penalty is attached to any refusal to accept the award. The legal right to quit work individually or to strike as a group is in no wise impaired, and no legal right or privilege now enjoyed by the railroad employees is taken away by this bill. The only compelling force to cause compliance with the terms of the award is public opinion. If such terms are not fair and just, public opinion will approve their rejection. If the terms are fair and just, not only to the parties immediately concerned but to the great mass of the people, who in the last analysis must pay all the bills, public opinion will doubtless be felt on the side of the award.

There is nothing in this bill that is unfair and unjust to any employee of the railroads, and in my judgment such opposition as is now being manifested is not on account of anything contained in the bill, but is only a smoke screen for the purpose of concealing the real purpose of finally securing control of the railroads under the Plumb plan or some other Bolshevist scheme. [Applause.]

Mr. WINSLOW. Mr. Speaker, I yield to the gentleman from New York [Mr. PELL].

Mr. PELL. Mr. Speaker, I shall vote for the railroad bill, although I do not think that it is perfect or that in its present form it will endure forever. I shall vote for it because, on the whole, it promises service and treats the public, the laborer, and the investor with reasonable fairness. To defeat the bill would mean either to continue government control or to return the roads in such a condition as practically to condemn them to bankruptcy. I am very strongly opposed to government ownership, and no one is seriously in favor of the other alternative.

Almost all of the criticism of private ownership in the past has been based on errors of finance, rather than on errors of administration, and the question of financing the roads seems to me to be reasonably taken care of in the present bill, and, even if it were not, I do not regard throat cutting as a good cure for a cold. The regulation of the financial management of a great enterprise, while not simple, is quite possible, but it does not seem to me that we or any other body can prescribe rules for the detailed administration of great affairs, and to attempt to establish government control in this country would lead to almost no good results and to a great many bad ones. For example, there would be about 2,000,000 voters directly or indirectly deriving their support from the railroads, which would be by far the greatest governmental activity. It is almost inconceivable that a political engine of such power would not be employed by men on both sides to affect the result of elections.

In the case of a privately owned road, managed for profit, extensions and improvements are made solely in the hope that the people will use them. If a privately owned road is of little or no use to the public, it will fail. In the case of roads built by the government or of extensions made by the government, there is always the possibility that certain communities will be built up at the public expense, notwithstanding the loss to the service.

It is a perfectly fair rule that if a community is too small or has too little business to pay a reasonable profit on a railroad, or its prospects are not good enough to induce an intelligent man to bet that it will reach that condition in a few years, that community is not in sufficient need of a railroad to justify us in taking public funds to build one, and if it be in such condition private capital can very readily be found to finance the enterprise.

I have myself traveled on government and privately owned railroads in Europe, and my invariable conclusion has been that in each country the privately owned roads were the better administered. In France, before the war, the privately owned roads were paying good dividends and the government roads were all run at a loss, although the charges for transportation were the same.

As a rule, we who are responsible to the people are none too careful of the public funds, and it is hardly likely that a railroad administration which is responsible to us would be much more careful.

I am very much afraid, however, that, whether we like it or not, the socialization of railroads will be a fact inside of 10 years. There are to-day being organized throughout the country nonpartisan societies to extend Government control in every way possible. They are backed by an enthusiastic minority of the people who will not vote party labels but will support loyally any man in Congress or the State legislatures who has supported Government ownership and oppose its enemies.

It is almost impossible to impress the majority of the American people, which I am firmly convinced is opposed to the socialization of industries, with the very serious danger inherent in the activities of these organizations. The ordinary stockholder in the railroads and the policyholder in a life insurance company will absolutely refuse to pay any attention whatsoever to politics and to the protection of his property. As a rule he regards politics as a thing beneath him and unworthy the attention of a person of his dignity.

It would be well for the property owners of this country to realize that no body of elected officials can protect their rights unless they themselves are willing to make some effort to protect them. If they persistently take the attitude that they are too good to mix in politics, or that it is too much trouble to vote anything but a straight ticket, they may be quite sure that the rights which they neglect to guard will be sacrificed by others. In the time of their necessity they will have shown to them the political bones of thousands of men in Congress and in the State legislatures who have endeavored to support them and whom they have subsequently abandoned at the elections to the resentment of various particularistic groups. I see no salvation for property in the United States unless those of us who care about the interests of our country meet organization with organization and stand together to support our principles.

The prohibition law has been passed too recently for any of us to fail to realize the extraordinary power that it is possible for a well-organized small group to obtain in this country as long as the majority of the people flaccidly vote party labels.

Mr. WINSLOW. Mr. Speaker, I yield to the gentleman from West Virginia [Mr. GOODYKOONTZ].

Mr. GOODYKOONTZ. Mr. Speaker and gentlemen of the House, I will not be able within the time allotted to me to enter upon an extended discussion of the bill. In the outset I want to confirm or corroborate what the gentleman from Indiana has said. In my opinion this will prove to be one of the greatest pieces of constructive legislation that has been considered, at least by this Congress and perhaps by any previous Congress. And I venture the opinion and prediction that as the years roll by the merits of the measure will develop themselves and be understood and appreciated, and that employees as well as employers, and the public of the country, will appreciate what the great men on the committee have accomplished. [Applause.]

The Cummins measure provided that it should be unlawful for two or more persons, employees of a carrier, to hinder the operation of trains or other facilities of transportation, and de-

clared that such action would constitute a conspiracy, and that upon conviction, as punishment, a fine not exceeding $500 or imprisonment for six months, or both, should be imposed, and, further, that whosoever should aid, abet, or counsel the commission of the acts referred to should also be guilty, and upon conviction punished as aforesaid.

The advocates of the Cummins measure contended that employees should be forbidden to strike, and in case they should strike and thereby impede or retard or prevent the transportation of commodities or persons in interstate traffic, such action should be a crime and punished as such. They argued that such legislation was necessary in the case of railroads because these were a facility of public service; that the people were entitled to be protected against the dire results that would come in consequence of the tying up of the railroads. The Cummins bill was passed by the Senate.

Another measure, known as the Esch bill, provided for the settlement of disputes between carriers and employees, set up a system of arbitration, and prohibited strikes pending the consideration of the question by the board; provided that any union which should authorize or direct a member to break his contract of hire, or to violate the award of the board, should be liable "for the full damages to the carrier arising from the breach."

Organized labor, as represented by the 14 railroad brotherhoods, was justly aroused at the antagonistic spirit manifested in the preparation and advocacy of the drastic features of the bills referred to.

From he beginning I have frankly explained to all that under a deep conviction I was absolutely opposed to the continuation of Government operation or control of railroads. The fact that the Government, using the lines as a unit, vested with all power, military and civil, with the employees acting under the impulse of war patriotism, was not able to successfully operate these railroads, having run them at a loss in excess of $700,000,000, and confronted with enormous claims presented by the owners of the properties for failure of the Government to keep the roads and equipment in condition for use, and in failing to supply the necessary additional equipment required, and in throwing out of employment many thousands of men engaged in other industries for a large portion of their time by reason of failure to furnish cars for use in the transportation of coal and other commodities, and in view of the greatly increased cost of transportation of freight and passengers, and the general inefficiency of the service—trains running late and wrecking; also the flagrant disregard and disrespect of the rights of the people by Government officials having to do with the operation of these public agencies of transportation, I felt that I could not, with respect to my own feelings and in justice to the general public, do otherwise than oppose to the utmost of my ability any plan for the continuation of the unhappy condition existing.

But, Mr. Speaker, my mind has been balanced from the start in opposition to the antilabor clauses of both the Esch and the Cummins bills. I felt, however, that some tribunal ought to be established where the parties might resort for a public hearing and decision regarding their rights, provided they wished so to do; and when an amendment known as the Anderson amendment was proposed I expressed my feelings on the subject in no unmistakable way. While it was somewhat unpleasant to oppose a majority of the committee members belonging to my own party, yet duty compelled me to dissent from the view of these gentlemen and to oppose the enactment of the clause into law. I spoke against that antilabor clause and voted against it, with the happy result that the Anderson amendment prevailed. This amendment had the cordial approval of the 14 brotherhoods. Many letters from railroad men have come to me expressing their appreciation of my efforts in connection with the matter.

In support of my position, which was successfully maintained, I read from the CONGRESSIONAL RECORD of November 14, 1919, the following extract from my remarks on that occasion:

I now come to my third proposition—the employees. On the motion of the gentleman from Indiana [Mr. ANDERSON] to strike out the matter contained under the third title or section of the committee bill, which reads thus, "Disputes between carriers and their employees," and to substitute other provisions in lieu of the committee draft.

The chief objections made by labor to this provision is that it provides for compulsory arbitration and requires that the award be made a part of the contract between the parties, forbids strikes, and gives a right of action to the carriers against the unions for damages sustained for any breach of that contract. I am opposed to this provision of the bill. My reasons therefor, in brief, are these:

Why should the railway men be singled out and made the subject of such legislation, leaving out all other union labor? The railway brotherhoods have been the great conservative element in unionism for the past 30 years. They have been the balance wheel that has kept down radicalism. They have opposed socialism that leads to anarchy and revolution. They have not been in the class of McNamara, of the bridge builders, now serving terms for dynamiting; nor in the class of Lewis, of the mine workers, who would call a nation-wide strike in abrogation of unquestioned pending contracts, such as existed in the Fairmont, Kanawha, and New River fields between the coal operators and that union.

Why provide a remedy for the recovery of damages against the railway brotherhoods when it is a fact that they have never been known to break a contract? The character of these brotherhoods is above reproach. As honorable men they have always fulfilled their contracts. With only one exception, there has not been a strike of railroad men in my district during the past 25 years.

Again, such legislation as this would prove abortive.

The Indianapolis injunction can not be enforced unless the defendants are willing to comply with the spirit of the decree. They may keep to the letter of the mandate and yet the men not go back to work. All this goes to show the futility of enacting statutes designed to coerce large bodies of men in respect to performing labor. You can take a horse to water, but you can not make him drink.

I regard the provisions of the committee bill only as sources of irritation and as provocative of trouble.

Human nature resents all interference with personal liberty and revolts at compulsion. The men, as good citizens, might abide by even a bad law, but they would do so in sullen mood and feel revengeful against those who enacted it as well as those who would seek to enforce it.

I hope the amendment proposed as a substitute will be adopted. It would provide a peaceful system for arbitration and award. The employees' organizations are willing to accept this amendment and to abide by the results of its operation if it be enacted into law. There will be no strikes if this provision becomes a law. No organization of men could afford to violate its terms or the judgments rendered under it. The passage of the measure will constitute one of the most forward steps taken in matters of legislation during the past decade.

Further, in supporting the substitute amendment let me say that I am representing the wishes of thousands of my constituents. In my district are four large terminal yards. Two of them—one at Bluefield and one at Williamson—are on the Norfolk & Western, Hinton on the Chesapeake & Ohio, and Princeton on the Virginian; also subordinate terminals at Gary, Vivian, Mullens, and Logan. This great district includes employees of six railroads, and I am here to represent them. The employees of these roads are not only personally interested but the business men of my district are also interested in their prosperity. This great body of workers are entitled to the very highest consideration at the hands of this Congress.

Mr. Chairman, I believe that the compulsion of public opinion will enforce the judgments that may be awarded by the courts of arbitrament provided under that amendment. I believe that the force of public opinion will control the execution of those judgments and render the law efficacious. [Applause.]

Mr. Speaker, the Esch bill embodying the Anderson amendment was then passed by the House. The Senate and the House being unable to agree, a joint conference committee consisting of 10 members—five members from each branch of Congress—was appointed with authority to settle the dispute. This committee has been in session for over a month and has reported to the Congress a substitute bill, the one in the House being known as H. R. 10453. Opposition to the bill has appeared in certain quarters. This opposition comes from those in favor of either the so-called Plumb plan or an extension of Government operation. They assign various reasons why the bill should not pass. One is that it is too liberal to the railroads, but I do not see how employees could demur to this provision, for if the railroads do not prosper they can not pay liberal wages. Another objection is that some changes have been made in the Anderson amendment by admitting on appeal representatives of the public, and providing that at least one of the three representatives of the public should unite in the decision. The decision must be concurred in by at least five of nine members. All fair-minded and reasonable men, whether they be owners or employees or of the group known as the public, are bound to concede that the public has some interest—I think a very great interest—in transportation, and, if so, they are therefore justly entitled to representation. I have made it my business to critically examine the provisions of the bill relating to the settlement of disputes and am pleased to find that there is no provision therein which forbids employees to strike at any time, either before, pending, or subsequent to arbitration. There is no provision making strikes unlawful or denouncing them as conspiracies or defining them as crimes, much less inflicting punishment. There is no provision holding unions or members thereof liable in damages, for violating contracts or refusing to abide by the award of the officers appointed to hear and decide. The bill therefore leaves the settlement of labor disputes to the honor and patriotism of the men. If the measure be passed, it will be the first time in the history of the country where a tribunal has been erected to which the workingmen may go and present their cause and challenge the carriers in vindication of their just rights.

The public has generally been sympathetic, and in justice should be, toward laboring men. Laboring men are entitled to have established a tribunal of this sort in order to relieve them of the momentous decision of engaging in a strike. I can very well imagine the feelings of a man called upon by an organization to strike. He would long deliberate upon the effect of the strike. If the strike were called in winter and be prolonged and the entire transportation facilities of the country broken up he would certainly reflect upon the pain and suffering that he would thereby impose. The freezing and starving of millions of people is not to be lightly considered. Again, he would be em-

barrassed as regards his attitude toward his own corporation. He has been a loyal employee of the company for many, many years, and maybe, from time to time, promoted; the officials have shown him and his family every consideration, but now he is called upon to decide whether he will strike or be called a scab. Therefore it seems to me that if this measure shall pass a great step forward will have been taken and that great and lasting good will be accomplished in the interest of all concerned, and to the workingmen and employees more than to all others. Furthermore it will relieve the danger of immense loss of wages. Two strikes—coal and steel—have recently failed, bringing great financial loss and distress upon workingmen. And it will be recalled that the Steel Corporation declined to recognize the union, much less to arbitrate the questions involved. Had there existed a labor statute, such as this bill carries, applying to industrial corporations, the men might have been saved many thousands of dollars and not come away empty handed.

My respect and sympathy go out to the men who labor with their brain and hands, and in voting for this bill I do so in the firm belief that I am acting in these men's interest. In so doing I realize that, with some, I may be misunderstood, but this shall not cause me to deflect from the course of action which my mind indicates is the only honorable one to pursue.

These remarks, Mr. Speaker, accurately record my convictions on the subject.

Mr. WINSLOW. Mr. Speaker, I yield one minute to the gentleman from Illinois [Mr. CANNON]. [Applause.]

Mr. CANNON. Mr. Speaker, in the time allotted to me the best speech that I can make will be to say that on yesterday I listened to the gentleman from Texas [Mr. RAYBURN], as well as some others upon the Democratic side and upon this side, and that I indorse all that the gentleman from Texas [Mr. RAYBURN] said. I believe that he is a member of this committee. In common with others, if I had supreme power I would change this bill in one or two instances, but as I have not, I am going to vote for it as I vote for all important bills, without being able to say that I am pleased with every dotting of an "i" or the crossing of a "t." [Applause.]

Mr. WINSLOW. Mr. Speaker, I yield to the gentleman from Ohio [Mr. COOPER]. [Applause.]

Mr. COOPER. Mr. Speaker, after months of labor by the committees of the Senate and House of Representatives on the bill providing for the return of the railroads to their owners, we are to-day considering the conference report on this measure. Representatives of the two branches of Congress have reached an agreement on the final form which they believe this legislation should take. I think it is generally recognized that this is the most important and most comprehensive bill for the control of the transportation system of the country ever considered by Congress. As a member of the Committee on Interstate and Foreign Commerce, which framed the original House bill, I have had a very special interest in this question, the proper solution of which I believe to be of most vital importance to the people of the country.

I want, if possible, to make my position clear relative to the adoption of the conference report. I can not agree with those who advocate two years' extension of Government operation of our railroads or the adoption of Government ownership or the Plumb plan, for I do not believe any one of these proposals would be for the best interests of the public, employers, or employees. The advocates of the extension of Government operation, Government ownership, and the Plumb plan tell us that under the two years of Government control through which we have just passed our railroads have been giving better service to the public and have been built up to a higher state of efficiency than they were under private management.

I am frank to say that soon after the Government took over the railroads there was a decided improvement in service, but the reason for that was that, owing to the Great War, the railroads were facing abnormal conditions, and the only reason that the Government was able to meet this abnormal condition was the fact that it was permitted under the war power to suspend laws, regulations, and rules which had handicapped the private operation of our railroads. Therefore I am ready to say that at the beginning of the war it was absolutely necessary for our Government to have taken over the operation of the railroads.

Yet I challenge the statement of those who say that at the end of two years of Government operation our transportation system is in a better condition than it was before the Government took it over. On the contrary, I do not hesitate to say that the railroads of our country were never in such a deplorable condition as they are to-day, and I know that my opinion on this matter is supported by the public, the railroad managers, and the employees. It is estimated by reliable authority that to meet the transportation needs of our country and build up the railroads so that they can handle traffic properly will require over $1,000,000,000 annually for the next five years. The war is over and the people are sick and tired of Government control, war supervision, and regulation. There is a general feeling that, inasmuch as we are on a peace-time basis again, we should have less Government interference with legitimate private business and that Congress should encourage and assist private enterprise and individual initiative, which in the past has made us the greatest nation on the earth. [Applause.]

I learn from reliable authority that under normal conditions our railroads require about 2,000,000 tons of steel rails per year, whereas in two years the Railroad Administration has purchased directly only 200,000 tons of steel rails. Annually the railways require about 100,000,000 new ties, but apparently under Federal control there will be a shortage of 50,000,000 ties. During the four years prior to Federal control the railways built an average of 100,000 freight cars per year, whereas the administration has purchased only 100,000 freight cars in two years, of which only 90 per cent have been delivered. It is estimated that about 200,000 new cars must be built in 1920 to make good the deficiency.

It is also stated that the normal railroad requirements are about 3,000 new locomotives per year, yet during Federal control only 2,000 locomotives, or one-third of the normal requirement, have been provided. Only 923 new passenger cars have been purchased in over two years, and only 721 miles of railroad extension have been built.

The President has issued a proclamation stating the railroads will be returned to private ownership on March 1. I believe that it would be a calamity to send back the railroads without proper financial assistance by the Government. It seems to me that this will be necessary if the railroads are to function properly, give the right kind of service, provide needed equipment, and pay an adequate wage to the employees. In this respect I am in hearty accord with the provisions of the conference report. It seems to me that the Government must either provide for financial support of the railroads at this time or else embark on a Government-ownership program, and I believe that Government ownership will in the long run at least be much more expensive to the people of the country than private operation. If the Government needed more funds to operate the railroads, it might not increase rates, but it would then be compelled to make up the deficit by taxation on all the people.

There has been much unfair and misleading criticism of the financial provisions of the conference report. The bill says that there shall be a return of 5½ per cent on the actual property valuation of the railroads, which is to be determined by the Interstate Commerce Commission. Watered stocks are not validated, and in fact under the bill it will be possible for the Interstate Commerce Commission to squeeze false values out of railroad securities. Those who are so free to talk about big business interests benefiting by Government financial aid to the railroads should remember that there are 670,000 individual holders of railroad stocks and 300,000 owners of railroad bonds, and that a very large percentage of railroad securities are owned by insurance companies and savings banks. Hundreds of thousands of people who have life-insurance policies or are depositors in savings banks are directly interested in the value of railroad securities, and it has been stated that if the railroads go back to their owners without financial cooperation by the Government very many of them will go into bankruptcy. The interests of insurance policyholders and savings depositors must be protected.

I am of the opinion that the so-called labor sections of the bill are open to criticism. The conference report proposes, first, that the railroad companies and employees shall endeavor to settle all disputes as to wages and conditions of employment between themselves, but it also establishes machinery to deal with these disputes consisting of adjustment boards and a railroad labor board of nine men, with the public, the companies, and the employees equally represented on this board. The plan proposed in the Senate or Cummins bill, including the antistrike clause, is rejected, but the Anderson amendment placed in the Esch bill by the House is also stricken out by the conferees.

I heartily supported the plan for adjusting labor disputes between the railroads and their employees which was proposed in the Anderson amendment to the Esch bill. I had hoped that the conferees would retain the Anderson plan in principle in the final report.

I am frank to say that I am in sympathy with the desire of certain classes of railroad employees for increases in wages, for I contend that they are not receiving the pay to which they

are entitled. I am sure that there is a misunderstanding in the minds of the people relative to the wages of railroad employees. Many people believe they are among the highest paid workers in the country. Such is not the case, and the average railroad employee's wages to-day is far below the wage paid to other skilled workmen. For instance, let us take the wages of a switching crew under Government control of the railroads—and this branch of the service is very hard and dangerous work. There are, as a rule, five men on a switching crew—engineer, fireman, conductor, and trainmen. We must bear in mind at all times that the engineer is the highest paid employee in train service, and under the schedule of wages which is in force he receives 70 cents per hour; for an eight-hour day, $5.60. Here is a faithful employee, who may have worked for 30 years, holding a highly responsible position and making $5.60, while the steel industries in my own district pay the commonest kind of unskilled labor $5.06 for an eight-hour day.

Mr. Speaker, more than six months ago the railroad employees made an appeal to the Railroad Administration for an increase in wages in order to meet the high cost of living. At that time the President asked them to withhold their request for an increase in wages until the Government could be given an opportunity to work out its plans for a reduction in the high cost of living. The time agreed upon for delaying action has passed and the cost of living is not any lower. Once more the railroad men have made an appeal, and again the President has asked them to wait until a basis for settlement which he suggests can be worked out. I am sure that the spirit exhibited by the representatives of the railroad employees in accepting the latest proposal and in agreeing that our transportation system shall not be interfered with is appreciated by the American people.

I hope that the method of handling railroad-labor questions provided in the conference report will not interfere with the plans that have already been launched for the adjustment of wages of the railroad employees at the earliest possible date. If it develops that there are serious defects in the machinery for handling labor questions as proposed by the conferees, I shall be among the first to insist that Congress shall make whatever changes are necessary in order that the law shall be fair to all concerned. I have believed from the first that if it had been found necessary to provide by law for the arbitration and conciliation of railroad-labor disputes this should have been in the form of separate legislation, which could be considered on its merits, and not be involved with other matters. In the present bill the labor question is complicated with other vital issues.

Mr. WINSLOW. Mr. Chairman, I yield to the gentleman from South Dakota [Mr. JOHNSON].

Mr. JOHNSON of South Dakota. Mr. Speaker, the time allotted to me is too short to enter into a technical discussion of this bill or its provisions, and I am inclined to the opinion that a technical discussion of it would be a waste of time, because every Member of this House is, or should be, familiar with the most important legislation that has come before us for action this year. Every Member knows, or should know, how he intends to vote.

None of us are satisfied with the conference report as it stands. The carriers do not like it, the employees are opposed to it, and the public doubtful of it. That fact alone, to my mind, does more to prove the fairness of the conference report than any other one thing. If the carriers approved heartily of it, I should fear it, and if it had the indorsement of the American Federation of Labor and employees I would know that it was written in their interests and not that of the public. Two-thirds of the criticism against the measure made by the labor unions is solely in the interest of the Plumb plan and directed against private ownership. The argument against the guaranty provision is, in my opinion, a subterfuge, because those provisions constitute a limitation of income rather than a guaranty, and if it is a guaranty it is only for the short time that will be necessary for the roads to adjust themselves to private control as opposed to Government ownership. There are no strike provisions in the report, however clever arguments may be made by the attorneys who represent the employees. The issue resolves itself solely into a question of whether or not at this time we deem it advisable to have public or private ownership, and a vote for the report is a vote for private ownership, while a vote against it is nothing more nor less than a vote for the Plumb plan. The fact that practically all the members of this body who fought against political domination by railroads, against a return on watered stock, and against overcapitalization are voting for this report ought to demonstrate that fact to any one who impartially desires that which is best for the public as a whole. This vote, however, ought not to be misconstrued by railway executives or their representatives. It is not a vote in their interest, but a vote in the interest of the public. They and private ownership are on trial. The railroad executives should not mistake public sentiment, the justice of the facts, the feeling many of us have that the abuses of 20 years ago would be continued if the opportunity existed, that the public knows the main facts concerning physical valuation, and that the figures are not being correctly given.

I do not desire to go into detail concerning the railroad lobby. It has been no more vicious but just as insidious as that maintained by the American Federation of Labor and the brotherhoods. They both have wanted everything for themselves and have cared nothing for the public. The public would be justified in considering neither of them, and it has the power and will to enforce its dictum. Both of your lobbies should be punished. You both, when you had the power, have bulldozed, bribed by political promise, and deluded by economic demonstration. You both have retained clever lawyers to misrepresent the facts and used every element of publicity to delude the public. If the conference report fails, the railroad interests will insidiously work for the defeat of every man who opposed it. If it carries, the American Federation of Labor will use every art known to the demagogue to defeat its supporters. You both have bored and do bore from within. Either of you could win were it not for the fact that each year the United States is fortunate enough to receive new young citizens, young men and women who are not afraid of either of you or of any national enemy, alien or domestic. As fast as either of you buy, bulldoze, intimidate by publicity, or defeat a Member of Congress another will arise to take his place. America may feel safe in the support and reserve that will inevitably follow. Neither capital nor labor, because of the accident of fortune, work, or place, has a right to dictate the policy of the United States with reference to its public utilities, and whether you be 1 or 20 per cent of the total population you never will dictate it. Labor is entitled to the fair and decent things in life, and you railroad owners are entitled to a fair return on the money you have invested after the Government takes the capital, income, and inheritance taxes the people of this country will take from you when they awake to the fact that capital, income, and inheritance ought to be taxed to the living limit to pay the expense of this war, Government expenses, and our public debt. Private ownership is having its second and last chance; the pendulum is swinging narrowly; public ownership, which failed because of its lack of economic foundation, its handicap of McAdoo political vote-getting inefficiency, and the grasping of labor when men with sporting blood fought for $30 per month, will get its second chance under laws that prohibit strikes and confiscate capital if private ownership fails. It makes little difference to most of us which plan is adopted so long as it makes good. The public, and neither capital nor labor, will make the decision. [Applause.]

Mr. SMITH of Michigan. Mr. Speaker, I have asked for these few minutes to explain my position on the labor section of this bill. It is the most far-reaching and important legislation brought to the House since the war.

I want to say that my heart and sympathies are strongly interwoven with labor, and I would not purposely impose a condition upon labor that I would not assume individually. I know that the operators, superintendents, and proprietors are not unfriendly to labor and are always pleased whenever one of their workmen is competent and fitted to assume the position of an officer in their management.

For a number of years I was a manufacturer, and now have a substantial part of my worldly possessions largely wrapped up in agriculture and am to-day the owner and operator of a farm. I mention this also as a result of my individual and sole endeavor, and what I have accomplished can be done better by the least of you or any other poor young man in the land.

I have employed labor all my business life, and have yet to have such a misunderstanding with my workmen as to lead to disruption. I want to do everything I can to encourage the most friendly feeling between capital and labor, because I know that the best interests of both lie in contentment, unity of action, and friendliness between them.

In looking over the field I see the best interests of my country subserved where there is harmony between the employer and employee. The employer, whether a railroad corporation, partnership, or individual, is never seeking for misunderstandings with workmen, and surely from the very incipience the workman is vitally interested in the progress, prosperity, and weal of his employer.

I want to say that there never was a misunderstanding or trouble between an employer and employee or employees that could not be adjusted by amicable settlement. This does not

imply that either can have his own way on all he desires. We know even important legislation is arrived at and enacted into law on the give-and-take policy. I make the broad assertion that all labor disputes and misunderstandings can be amicably settled, because finally an adjustment has always been made in every case, and whatever has been settled after trouble had can be settled before.

This railroad legislation not only affects upward of $20,000,000,000 in property, but also the most material and vital welfare of our Nation. Manufacturing, agriculture, and commerce are the avenues through which ebb and flow the vital welfare not only of our Nation but also of the nations of the earth. We wish to excel in all of these. We must have harmony and good understanding and friendliness with the workmen. I am in favor of the workmen quitting at their pleasure. I want every individual and all individuals to have that privilege. I think that the principal reason for employees using the strike is because there is no other course now open to them. So that I am not prejudiced against the strike, ipso. I do not believe that a person should be compelled to work unless it is at his own free will. We have heard a good deal about slavery. That has been abolished in every civilized country of the world. Slavery has been set at rest at the most terrible sacrifice of blood and treasure. But after a workman has left my employ, what is the condition then? After a workman has quit my employment my relations with him have changed. He is no longer associated with me in industry and has no legal right of interference. I am opposed to his interference with my business when he has quit my employ, and he should not undertake to destroy me or my business.

I know the courts uphold peaceful picketing. I hear it announced that there is no such thing as peaceful picketing. I see in nearly every strike a disposition to use force and violence. I am opposed to that. Much is said about our courts, but after 30 years of the best part of my life in court work, I think the courts have gone afield in permitting interference with a business by a person or persons who have severed their relations with it and are now strangers to its concern.

The present bill provides for a peaceful settlement of labor disputes. The employer knows when he is doing right by his employees. If he is not doing right by them he ought to, and if he does not see that his relations with his workmen are wrong, or that he is not paying them a sufficient wage, the present bill opens a way for any and all grievances with a view to amicable and peaceful settlement. It is not a perfect measure. No one claims it is. But it is a step forward for the peaceful settlement of labor and capital differences in business, and I am for it. Capital can not have all it wants. Capital can not shut the door to the just demands of labor. Under the bill either or both can be heard, and if either or both only desire justice they will find in the bill a way to obtain it. I want every workman to better his condition in life. I want him to be a master mechanic. I want him to be a foreman, a superintendent, or a president. It is the boast of our free institutions and the foundation of our society that every poor boy has an equal opportunity to-day to become the master of industry to-morrow.

During my connection and interest in banking for more than 20 years I have been greatly concerned at times over our financial conditions. This concern was not confined wholly to the daytime, but received a good deal of attention when I might otherwise have been asleep. The great concern of the banking fraternity was the question of panics, which at times were so acute that money could not be obtained from the money centers on first-class real estate security or unquestioned municipal or industrial bonds. Indeed, I have seen the financial situation so acute that a bank could not get its own money which it had on deposit with its own correspondents. Finally, the Federal reserve act was adopted, and may I say for myself individually as the head of a national banking institution that since the adoption of the Federal reserve act I have neither spent sleepless nights over the threat of a panic nor so far seen a time when currency could not be obtained for all legitimate needs, and I think this talk at the present time about inflated currency and being on the verge of a panic is, even under present conditions, unwarranted.

I have faith in the ability and intelligence of the American statesmen to rise to the occasion and provide a similar or sufficient legislation to reasonably meet the questions between capital and labor, and in this measure we have a fair beginning. And I hope it will result in such legislation as will be participated in and favored by labor, to the everlasting welfare of the American people. It provides for a quasi tribunal agreed to by the parties in interest. A board mutually agreed to by the parties in interest is the ideal board, and believing it to be the basis of a procedure beneficial to the interests of those concerned and the public, it ought to receive the indorsement of the Members of this great lawmaking body. Then if labor says it is injurious and detrimental to the workmen let it be amended, reenacted, and remodeled to meet the needs and do our best to meet a situation that has been one of the most important questions known to the ages.

I close as I began, expressing my favor for the peaceful, orderly, and mutual settlement of labor disputes, and in the interests of the public and all concerned I am for any law that will bring about this much-needed and desirable purpose. [Applause.]

Mr. KITCHIN. Mr. Speaker, I gave diligent study to the Esch bill. I gave equal study to the Cummins bill. I hoped that out of the wisdom and labors of the conference committee would be evolved a bill, a report, safeguarding alike the rights and interest of the public and the carriers, which we could all support. Reserving my determination to vote for or against the report until I could carefully investigate it, I carried to its study the hope, the wish, that I could vote for it. I ask you to believe me when I say that I exceedingly regret that I find in the report many provisions so dangerous and unjust; so pronounced in favoritism to the railroads and their security holders; so destructive of the rights of the States over intrastate commerce, which they have exclusively exercised since the beginning of the Government; so regardless of the public interest, with so little protection to the shippers, producers, and consumers; with so little concern for the Treasury and the taxpayers that I am unable to give to it my support. Yet I confess gladly that there are some wise and salutary provisions in the report. I could vote for its adoption with perhaps one or two of the objectionable features in it standing alone, but there are so many throughout the bill it is impossible to bring my mind to its approval.

I know Members, who never before voted for any legislative favoritism to special interest in any form, who, on account of their pronounced opposition to Government ownership, propose to vote for the adoption of this report under the honest delusion that its rejection may possibly mean Government ownership. And, too, there are some who pledged their people to vote for the return of the roads to the owners at the first opportunity. With these gentlemen I have no quarrel, and to them I can only say that I think their fears are not well grounded, and a vote against this report is not a violation of their pledges to their people. But the large majority of those who will vote for the report to-day, according to the speeches made to-day by the advocates of the report, will vote for it because the report accomplishes exactly what its authors intended, the enactment of legislation in behalf of the special interest of the railroads and the investors in their securities at the expense and regardless of the people's interest. With these I make contest. If I felt that the defeat of the report meant further Government control and operation of the railroads, or meant Government ownership, I would reluctantly vote for it in the hope that sooner or later the wisdom, patriotism, and courage of Congress would repeal the provisions to which I object.

I am glad that the distinguished gentleman from Wisconsin [Mr. ESCH], the able chairman of the committee, in his speech this morning refuted absolutely, once and for all, the railroad propaganda that the defeat of this bill means Government ownership or further control and operation of the railroads by the Government. Mr. ESCH declared this morning that the President by his proclamation will relinquish the roads on March 1, with or without this conference report. So Government ownership is not involved, further Government operation and control are not involved in the fate of this report. Whether the report is adopted or is rejected, the railroads go back on March 1 to the owners.

I want to dissipate another species of insidious propaganda on the part of the railroads and advocates of this bill in order to intimidate Members of the House in voting for the report. It is contended in the press to-day and repeated here that a vote against this report means a surrender to Mr. Gompers and the labor leaders, but that a vote for this bill means that the Member so voting refuses to obey the orders of and surrender his convictions to Mr. Gompers and the labor leaders. I have had no less than three Members of the House tell me that on account of the attitude of the labor leaders they can not afford to vote against this bill, because they would be held up by the press in their districts as surrendering to Mr. Gompers and the labor leaders. In my judgment the arbitrary, the dictatorial, and defiant attitude of Mr. Gompers and a few other labor leaders has lost to the opposition of this report at least a dozen or more gentlemen who otherwise would have voted against it.

I did not vote for the Anderson amendment in the Esch bill because it was an arbitrary, one-sided, labor-leader-made, futile amendment. I prefer the labor proposition in the report to that.

I would go much further than the labor-dispute provisions in the report if I had my way about it. I must confess that I can not understand how and why the labor leaders object or can object to the proposition in the report. It is as harmless as it can possibly be. It is not binding on any. It takes away no right, not even any of the assumed rights of labor or of the labor leaders.

I would establish a tribunal of big, strong, fair-minded men, of equal dignity as that of the Supreme Court of the United States. I would give them salaries equal to those of the judges of the Supreme Court, with long terms of office. I would make ineligible to membership on that tribunal any man who had ever been an officer or director or attorney or agent of a railroad company. I would make equally ineligible to membership any man who had ever belonged to a union or brotherhood or had ever represented as attorney or otherwise a union or brotherhood. I would have it absolutely impartial and disinterested. Such a tribunal would command the confidence of the public, the carriers, and the employees. Before this tribunal the carrier and the employee alike could lay their grievances and disputes with confidence that a just and righteous decision would be rendered. In the first instance, in order to give the carrier and employees a chance to get together among themselves, I would establish adjustment boards such as now exist in the Railroad Administration. If no decision could there be reached within a reasonable time, the carriers and employees, either through themselves or their organization or brotherhood, and the public through the President, would each have the right to take the dispute and issues in controversy before such a tribunal. While such a controversy was pending and until 15 or 30 days after its decision I would make unlawful lockouts or strikes, certainly such as would affect the free transportation of food, fuel, and clothing. [Applause.]

Mr. GARLAND. Mr. Speaker, will the gentleman yield?

Mr. KITCHIN. No; I regret I can not.

So, gentlemen, my opposition to this report is not in compliance with the demands of Mr. Gompers or any other labor leader. But if Mr. Gompers opposes this report, this is no conclusive reason why I should favor it. Mr. Gompers and the labor leaders are opposed to compulsory military service; but because of that I am not going to favor compulsory military service. I am not going to let Mr. Gompers, because he favors or opposes a proposition, run me on the other side because of any prejudice I might have against him or other labor leaders, and I have none. If Mr. Gompers were to oppose hanging a man for petty larceny I would not be so prejudiced as to favor hanging a man for petty larceny.

Why, gentlemen, every railroad official, every railroad lawyer, every railroad lobbyist, every railroad-security holder, every speculator on Wall Steet in railroad securities, is heart and soul for this report. Yet that is no reason why one who honestly believes that this report ought to be adopted as a wise and beneficent measure should oppose it. With such conviction he should still be in favor of it.

I have heard much in this debate about the railroads being bankrupted if we do not adopt this report. It is asserted that the roads, if we fail to adopt this report, will be bankrupted; that after March 1 ruin and disaster will be their fate and chaos will be the fate of the public. That assertion may fool some new Member here. I have been in Congress for nearly 20 years. There have been no less—since I have been in Congress—than a dozen propositions before this House in the interest of the public which the railroads and railroad lobbies protested against, and every time one of those measures was presented to Congress I heard the cry, "If you pass it you will bankrupt the railroads; you will put them into the hands of receivers."

Well do I remember when, under the leadership of the distinguished gentleman from Illinois [Mr. MANN], the chairman of the Interstate and Foreign Commerce Committee, passed through this House the Mann railroad bill in 1910. Every railroad throughout the United States then cried "Bankruptcy, bankruptcy!" They lobbied me and they lobbied every other Member of this House, and they vowed before heaven and earth that if the bill was passed it would mean ruin to the railroads and disaster to the public. I heard that same cry when the workmen's compensation act was under consideration, when the safety appliance act was before us, when the act limiting work hours on railroads was considered, and when the Adamson eight-hour law was before us. Every time the same old cry of bankruptcy, receivership, ruin filled our ears. All those bills were passed—became law—and no bankruptcy, no ruin, no disaster followed.

Another thing: In the last 15 years every time a railroad went to the Interstate Commerce Commission for an increase of rates it cried, "If you do not give us an increase of rates we will be bankrupted; we will have to go into the hands of a receiver." They have tried dozens of times to increase rates, making the same plea. While crying "bankruptcy" the statistics showed that the railroads were making larger returns on their investments than they had made in any period of 5 or 10 years since the railroads have been in existence. [Applause.]

They will be bankrupt if you do not pass this bill. And this assertion when they—the stockholders and bondholders—hold in their pockets—or will when settlement is made for the balance of the rentals—$2,000,000,000 of the people's money as clear profits. Over a billion dollars more—three times as much as they possibly could have made if the Government had not taken control of the railroads.

They ask in this bill for a $300,000,000 revolving fund to be loaned to them. They ask for advances to operate during the six months' guaranty period, after the relinquishment of the roads to the owners, which will take at least $250,000,000 or $300,000,000, making for these two items $500,000,000 or $600,000,000. I would suggest a way to the railroads to keep from being bankrupted if we reject this report: Just take $500,000,000 out of this $2,000,000,000 of profits you have in your pockets, or have put into other investments, and with that help operate your roads for the next year or six months. They will then have one and a half billion dollars left out of their profits for the last two years—a billion dollars more than they could possibly have made if they had retained control instead of the Government taking control. Bankrupted! with $2,000,000,000 profits in their hands! No advocate of this report has dared to mention in all this debate these huge profits in the hands of the railroad owners. It would dissipate this plea of bankruptcy.

The President did take the railroads over, but he did not take them over without consulting the railroad managers and officers and security holders. They gave their consent. They wanted—they were anxious for—the Government to take over the roads and operate them during the war. It was to their interest. It proved a godsend of profits to them. They knew they could not make operating expenses under the circumstances, because, with the Government putting billions of dollars of its bonds and certificates of indebtedness on the market they could not sell their railroad securities to raise funds necessary to provide equipment and improvement for the new and increasing war demands. The Government, with their consent and request, took over the railroads, and after 26 months of operation it will pay over to them $2,000,000,000 clear profit, together with necessary improvements and good and full equipments necessary to maintain the railroads in the next two years amounting to over $1,000,000,000, every dollar of which was paid for out of the earnings of the taxpayers and consumers. This bill, or report, funds that more than a billion dollars for 10 years—loans it on 10 years' time to the railroads. So, gentlemen, do not try to convince yourselves that you must vote for this report in order to save the roads from bankruptcy.

My friend Mr. ESCH can not deny, and no man on this conference committee can deny, or has denied, that after the roads have been turned back to the owners they will then have in their pockets, paid by the Government for rentals of the roads, over a billion dollars more than they could possibly have had had they been operating the roads. Nor can he or anyone deny that in addition to the two billions of profits the owners will have more than a billion dollars worth of improvements and equipments advanced by the Government.

The policy of railroads and their security holders to rely on the Government, the Treasury, is begun in this bill or report. It will continue. After the guaranty period, the railroads and their security holders will again come to Congress for loans, for guaranties, and for other favors. They will come with the same cry—ruin and disaster and bankruptcy—and with the same threat of chaos throughout the country, if their demands are not granted. Every man who votes for the adoption of this report will have the identical reasons to vote for the new loans, the new guaranties, the new favors, as he has to vote for this report.

Mr. Speaker, I have listened carefully to all the speeches made to-day by the advocates of this report. It was strikingly noticeable, first, that no one declared that this report, if adopted, would be helpful to the people or a benefit to the producers and consumers. Not one asked the House to vote for it on the ground that it was in the public interest. All asked for its adoption on the ground that it would help the railroads—that it would benefit the stockholders and bondholders of the railroads. Some asserted it would not hurt labor. None declared it would not hurt the public. They seemed unmindful of the fact that the only way this report would help the railroads was by hurting the people, that in thus favoring helping the railroads they favored

putting an increase of the burdens on the Government and the taxpayers, and on the shippers and producers and consumers of the country. The only possible way this bill can help the railroads is at the expense of the Government, the taxpayers, and the people.

Second. That while professing that by its defeat chaos to the public would ensue, ruin and disaster of the railroads would follow, not one in any way mentioned the fact that these same railroads, that these same stockholders and bondholders, whose interest excite their anxious concern, have in their hands, or will have in their hands when the President pays the balance to them as rentals for Government operation, a clear profit of over $2,000,000,000, and in addition an advancement by the Government of more than a billion dollars for additions, betterments, and equipment, conclusively showing that the railroads, their stockholders, and bondholders are not in financial bankrupting distress.

Third. That not one mentioned the fact that if the railroads are returned on March 1 without the adoption of this report, they will be returned and will operate under the existing interstate-commerce act, an act which is the result of more than a quarter of a century's struggle of the people in Congress with the railroads to adjust the proper relations between the roads and the public, and under which the railroads prospered more than ever before in their history. Even the gentleman from Wisconsin, the distinguished chairman of the committee, asked in his speech if this report was defeated, "What shall the people and the railroads do while legislation is waiting?" He seems to have forgotten that this interstate-commerce act and the Interstate Commerce Commission were in existence. Congress for 30 years, from time to time, had made efforts to adjust the proper relations between the railroads and the public, and the consummation of these efforts resulted in the interstate-commerce act and amendments thereto now on the statute books and under which, if this report is rejected, the railroads will go back to the owners on March 1. Under that act the commission can hear and determine the grievances of the roads as well as those of the public. Under that act freight and passenger rates can be modified, adjusted, or increased if the roads make out a case for such adjustment or increase. But the railroads—their stockholders and bondholders—are not satisfied with that. They must have loans, and guaranties of profits, and guaranties of deficits, and guaranties of investments hereafter, and other special privileges never before granted by law to any other industry or class. And if we do not pass this bill or report they threaten chaos throughout the country.

There never was a time in the history of the railroads that every railroad in the United States made money, that every investor in railroad stocks and bonds realized a profit. At all times some railroads did not make money; some investors in stocks and bonds suffered losses. Heretofore investors in railroads and their securities, like investors in every other kind of business, took the chance of gain or loss. There never was a time when some railroads were not in the hands of a receiver. But with the adoption of this report hereafter the Government, for the first time—and I believe the first Government on earth to do it—practically guarantees—that is, compels the Interstate Commerce Commission to insure—the making of money, more or less, by every railroad in the United States, and the realizing of profits by every investor in railroad stocks and bonds.

It is said by the advocates of this bill or report, by the congressional authors of the bill, that there is no such guarantee. True, there is no such guarantee directly out of the Treasury and pockets of the taxpayers, but there is a practical guarantee that it shall come out of the pockets of more than a hundred million people—out of the pockets of the consumers in the United States. This bill, this report, expressly directs the Interstate Commerce Commission to so adjust or increase the rates throughout the United States, or in the groups or regions, if in the discretion of the Interstate Commerce Commission it shall so divide the United States, so that it will insure at least an average return of profit of 5½ per cent—and the commission can increase it to 6 per cent, and after two years can increase it to over 6 per cent—upon the aggregate value of the railroads in the United States, or in such groups or regions as the Interstate Commerce Commission may fix.

The supposed or nominal authors of this provision and its advocates vigorously deny that there is any such practical guarantee or assurance. The nominal authors of the bill should not be criticized for this denial, because since they did not conceive and prepare this provision of the report, the same being conceived and prepared by a prominent railroad president, it is quite natural that they would not understand its meaning and effect quite as well as if they themselves were the real authors of it.

Let us see what the bill or report actually provides. Section 422—

(2) In the exercise of its power to prescribe just and reasonable rates the commission *shall* initiate, modify, establish, or adjust such rates so that carriers as a whole (or as a whole in each of such rate groups or territories as the commission may from time to time designate) will, under honest, efficient, and economical management and reasonable expenditures for maintenance of way, structures, and equipment, *earn an aggregate annual net railway operating income equal, as nearly as may be, to a fair return upon the aggregate value of the railway property of such carriers* held for and used in the service of transportation: *Provided*, That the commission shall have reasonable latitude to modify or adjust any particular rate which it may find to be unjust or unreasonable, and to prescribe different rates for different sections of the country.

(3) The commission *shall* from time to time determine and make public *what percentage of such aggregate property value constitutes a fair return thereon, and such percentage shall be uniform for all* rate groups or territories which may be designated by the commission.

* * * * * * *

Provided, That during the two years beginning March 1, 1920, the commission *shall take as such fair return a sum equal to 5½ per cent of such aggregate value*, but may, in its discretion, *add thereto a sum not exceeding one-half of 1 per cent* of such aggregate value to make provisions in whole or in part for improvements, betterments, or equipment—

And after the two years the commission may fix the percentage of return—that is, declare what the minimum fair return will be, but under the necessary implications of this report the commission will never put it at less than 5½ or 6 per cent, and it may be much more. *No man with sense can read that provision without knowing that it is a practical guaranty that every railroad shall make money and every investor in stocks and bonds shall realize a profit.* The only difference between this and an actual guaranty direct by the Government is that by the actual guaranty the profits or money guaranteed would come out of the Treasury and taxpayers, while under this provision the guaranty or assurance comes out of the pockets of the shippers and producers of the country, but finally out of the consumers. These provisions are mandatory on the commission.

I wish now to direct your attention to another plain proposition contained in section 422. You will observe that the rates of the roads throughout the United States, or in the groups or regions which the commission may fix, must be uniform; that is, when the rates on one road are increased, the same increases shall be had on all other roads in the group, whether such roads require such increased rates or not. In other words, it means that in order to increase the rates on a road that is not making sufficient money or sufficient profits for its investors, the rates upon a road which is making sufficient profits under existing rates shall also be increased. It makes the farmers, merchants, and manufacturers, and other producers living along the line of the road that requires no increase in rates, one making sufficient money or profits under existing rates, pay increased freight and passenger rates in order to help some other road that is not making sufficient profits to make more money. Why should the farmers, merchants, and manufacturers living in my district be forced to pay increased rates when the existing rates are sufficiently high to enable the railroads there to make reasonable profits, in order that some road, perhaps 500 or 1,000 miles away, on which they never traveled a mile nor shipped a pound or bushel of freight may increase its rates to its farmers, merchants, and manufacturers to satisfy the avarice of its investors? Such a proposition from every viewpoint is simply monstrous. It violates every fundamental principle of justice and fair dealing.

Let me direct your attention to another unjust, unfair and, in my opinion, unconstitutional provision in this section 422. It provides that when a road, whether its rates are increased or not, makes a net return of over 6 per cent, that one-half of the excess shall go into a Government fund, controlled by the commission, for the purpose of loaning it to other roads or with which to buy equipment to rent to other roads. In other words, it takes the profits from one road that is well circumstanced, honestly, wisely, and efficiently managed, and gives it by way of loans and rentals to another road, perhaps a competing road, not so economically and efficiently managed. It thus puts a penalty upon honesty and efficiency, and a reward upon inefficiency. This strikes me as being against every element of right and justice. It has the fundamental elements of socialism and communism. It deliberately takes by law the property of one who succeeds and bestows it upon another who fails to succeed. As indicated a moment ago, in my judgment this provision is unconstitutional.

Let me briefly recapitulate some of the objectional features of the bill:

First. It proposes to take from the Treasury, from the taxpayers, in addition to the loss of nearly $1,000,000,000 sustained by the Government, in addition to the over $2,000,000,000 net profits which the Government has or shall have paid the carriers for the 26 months' rental, $300,000,000 as a revolving fund for two years to loan to the Government railroads.

Second. In addition to this it proposes to guarantee, make good, to the extent of indefinite millions, the deficits which the roads not taken under control incurred during the period of Federal control.

Third. In further addition, it proposes to guarantee to the extent of indefinite millions for a period of six months after Federal control is relinquished the so-called standard return, which guarantees to the roads taken over and the roads not taken over the highest rate of profits in the history of railroads.

Fourth. In still further addition, it proposes for the Government to advance, to the extent of the guaranteed returns, loans to the owners of the railroads in order to operate the roads during the six months following relinquishment of control.

Fifth. In the way of advances, guaranties, and loans to the railroads, the taxpayer must pay during the next two years more than three quarters of a billion dollars.

Sixth. The Government must pay in cash its indebtedness to the railroads for rentals, depreciation, and damages, with only a limited right of set-off, while the indebtedness of the railroads to the Government to the extent of over $1,000,000,000 is funded for 10 years—is loaned to the roads on 10 years' time—and in the discretion of the President the indebtedness of the railroads to the Government to the extent of nearly one and a half billion dollars may be so funded.

Seventh. In addition to all this it will be required, according to Mr. Sherley's letter of the 19th of February, to Chairman ESCH, an appropriation of $436,000,000 more than is appropriated in this report to wind up the affairs of Government control, making a total appropriation for all the purposes of the report of more than $1,300,000,000.

Eighth. It practically guarantees that after September 1, 1920, rates shall be so increased on all the roads of the United States that the roads shall have an average net return of at least 5½ per cent on the aggregate valuation of the property of the roads within the United States or within certain groups which the commission may fix. This guaranty of 5½ per cent shall last two years. Thereafter the commission is directed from time to time to fix the per cent of the fair return and to increase freight and passenger rates to meet such return. Of the excess net earnings of 6 per cent of any road, one half shall be put into its reserve fund and the other half is to go to the commission in a Government fund to be loaned thereafter to the roads or to furnish equipment for the roads. This is in the interest solely of the roads, not of the shippers or the public. It makes the merchants, farmers, and producers living along the route of a well-circumstanced and efficient road pay increased freight rates in order that a mismanaged or inefficient road may make higher profits and declare larger dividends. The rates which the shippers and consumers must pay must be measured not by the earnings of the efficient and economically administered roads but by the earnings of the inefficient and extravagantly managed roads. It also takes from one road and gives to another.

Permit me to say here that the argument of the distinguished gentleman from Wisconsin [Mr. ESCH] made on the floor November 19, 1919, against the wisdom and justice of such provisions convinced me then that they were unwise and unjust, and I regret to say that his argument this morning in favor of them failed to convert me to his changed position.

Ninth. Competing roads, with the approval of the commission, are permitted to pool freights and earnings, dish out territory, and merge or combine in order to destroy competition. They, by order of the commission, can be made exempt from the penalties of the antitrust laws, Federal and State.

Tenth. It destroys State control over intrastate commerce and vests the whole power of control over intrastate as well as interstate commerce in one central power in Washington, the Interstate Commerce Commission.

Eleventh. In many respects it undoes the results of more than 25 years of struggle by the people and Congress to equitably adjust relations between the public and the carriers, consummated in the existing interstate-commerce act and amendments thereto. If this report is adopted, the people will have to begin anew another quarter of a century's struggle to right the wrongs which Congress has done them.

Permit me to recapitulate the amounts of appropriations which this report necessitates:

For the purposes of section 202, which provides for the "settlement of matters arising out of Federal control," $200,000,000 is therein appropriated.

For the purposes of this section, $436,000,000 additional must be appropriated in a deficiency bill, according to the letter of Mr. Sherley, Director of Finance of the Railroad Administration, to Chairman ESCH, of date February 19, 1920.

In addition, by this section "all unexpended balances in the revolving fund created by the Federal control act or of the moneys appropriated by the act * * *, approved June 30, 1919," are reappropriated. These "unexpended balances" amount to $450,000,000.

The indefinite amount appropriated by the report to cover guaranties to make good to the owners the deficits of roads not taken over, occurring during the period of control, and the indefinite amount appropriated to cover the guaranty of standard return profits of such roads for six months, are estimated to be $25,000,000.

The revolving fund to be loaned to the railroads during the next two years appropriated by the report amounts to $300,000,000.

The indefinite amount appropriated by the report to make good the guaranty of the "standard return" of all the roads for six months after relinquishment of control will amount to at least $350,000,000.

In my judgment, and I make the prediction, it will require practically the entire amount of the standard return for the six months; that is, $475,000,000, to make good the guaranty.

Whatever the amount shall be it is an absolute gift by the Government to the roads—the deliberate taking out of the pockets of the taxpayers and giving it to the railroad owners.

If the roads lose for the next six months at the rate they have lost under Government operation for the last two months—$100,000,000 a month—it will take $1,075,000,000 to make good the guaranty.

From these figures, this bill, or report, involves a total appropriation of $1,311,000,000 for the railroads!

Remember, gentlemen, that every dollar of these appropriations must come out of the taxpayers of the country. If we include the reappropriations, the amount will be $1,761,000,000! While the losses by the Government on account of Federal control are now estimated at $854,000,000, to be charged off as losses, my prediction is that when final settlement of all matters are had the losses will reach far above $1,000,000,000!

Gentlemen, I say, with all due respect to Mr. MONDELL and the Republican leadership, I have sometimes wondered during this session and the last session why it was that for the first time in 40 years of Republican control the Republican leadership of this House should be convinced that there should be economy, that their party should map out an economy program, and that they should follow it; that they should save to the taxpayers and to the people of this country hundreds and hundreds of millions of dollars by cutting all the appropriation bills to the bone. They had really convinced me that they were sincere; that they were going to change the record that they had made during the 40 years of their control of the Government. I and many other Democrats have heartily cooperated with them in reducing appropriations wherever we could reduce. I want to say that I never understood it until I read this conference report, until I saw the leaders of the Republican Party marshaling all their forces to vote for this report. Listen, gentlemen! Do you know that this report, if adopted, will necessitate appropriations out of the Treasury and out of the pockets of 100,000,000 Americans more than $1,300,000,000 to turn over, in one way or another, to the railroads? Oh, they can cut the Agricultural appropriation bill to the bone. They can save three or four or five million dollars there. They can cut the diplomatic bill, they can cut the legislative, executive, and judicial appropriation bill millions of dollars, they can cut to the bone all other appropriation bills. They can cut the soldiers' rehabilitation bill by the millions. They can save money by keeping from the crippled, maimed soldiers of this country what we justly owe them—a decent, comfortable, happy support. All these so-called savings, put together, will not amount to within $500,000,000 of what they will dish out in appropriations for the railroads of this country, on top of the $2,000,000,000 profits, in two years, that these railroads shall have already received from the Government out of the earnings of the taxpayers and the consumers of this country. [Applause.]

Enlisted men who went to the front and risked their lives and their limbs and returned have come into my office and said, "What is Congress going to do for the soldiers who went

across?" Men have hobbled into my office from Walter Reed Hospital and have asked, "Can't you do more for the crippled and the maimed than you have done?" I have told them that Mr. MONDELL, the majority leader, had said—and I agreed with him—that the Government owes now $23,000,000,000 of bonds, which costs in interest charges alone $1,000,000,000 a year, an amount greater than we ever collected from all sources of taxation in any year before the war, and it further owes certificates of indebtedness of three or four billion dollars, and the Government is doing all at this time it can do for the soldier; it just can not do more at this time; that all we are able to do is to help to some extent to make life comfortable for the poor fellows who came back with legs off and arms off and eyes out. We are not able to do any more for them in the present financial distress of the Government, said Majority Leader MONDELL.

But now, according to him and other Republican leaders, the Government at once becomes so rich, so generous, that by this report it can pour over $1,000,000,000 into the money chest of the railroads and their investors in addition to the $2,000,000,000 net profits paid them, in addition to the more than $1,000,000,000 it has advanced them for improvements and equipment!

I feel it my duty before concluding to congratulate the authors of the report in that it contains no deception, no evasions, no obscurities, no jokers. There is no attempt to mislead, no intention to deceive. Its terms and provisions are unmistakably plain. No one who reads it can possibly be misled or can possibly misunderstand. Its meaning is audaciously clear. The boldness in making clear by its terms and provisions the real purpose of its authors that this is a report, a bill, to protect the railroads and to promote the interests of their stockholders and bondholders for all time at the expense of the people, is both commendable and attractive. Its purpose and effect is not only to increase to the holders the value of their securities but to insure that holders and investors in railroad securities shall have at all times and at all hazards safe margins of profits, although every other business and every other investor may, in the paralysis of hard times and falling prices, be sustaining a loss. The present holders of railroad stocks and bonds will by this bill, if its design is accomplished, have their securities increased at least $2,000,000,000. Such favoritism to the special interests is unwarranted by any condition or fact. It is vicious and intolerable.

Mr. Speaker, the owners have been clamoring for the return of the roads since the armistice, and now when the Government is ready to return to them the roads, to receive them they charge the Government in gifts, loans, guaranties, and extensions of credits nearly $2,000,000,000, and in addition they demand the surrender by the States of all control over the intrastate commerce, and in further addition they demand their exemption from the antitrust laws.

The stockholders and bondholders of the railroads dictated and the conferees wrote into the report the terms and conditions upon which they would receive their own property, under the threat that if their demands were not granted they would bring chaos upon the country. One of the essential provisions which, as many advocates declared, causes them to support this report was conceived, prepared, and written by a prominent railroad president, chairman of the association of holders of railroad securities, and forced by him and other railroad officials into the report. The distinguished chairman [Mr. ESCH] disclosed this fact in his speech on November 19, presenting the Esch bill. He was then making an argument against the same provision, which was then in the Cummins bill—a stronger argument against it than to-day he has made for it. What railroad president or official, or what stockholder or bondholder wrote the other provisions of the bill, I do not know. The distinguished chairman has not told us, but I do say that this is a railroad bill, for and by the railroads, for and by the stockholders and bondholders. Advocates of the bill have shown by their speeches that this is a fact; that in this bill the Government, the people, the shippers, the producers, and consumers have not had a look in, nor have they had a chance even before the people's representatives to have their interests protected.

Before a vote is cast I propose that the membership of this House should know with certainty some of the unfair, unjust provisions of this report. Let every Member in this House remember that when he votes for this report he is voting—

To increase appropriations more than a billion and a quarter dollars;

To increase the public indebtedness which already amounts to the staggering sum of $26,000,000,000;

To make the already excessively high taxes higher;

To heavily increase freight and passenger rates after the expiration of the guaranty period;

To increase the cost of living;

To take out of the Treasury and pockets of the taxpayers of the country hundreds of millions of dollars for profits of the railroads for six months, which the Government thus far has never done for any other interest, corporation, or individual;

To guarantee from the Treasury and out of the pockets of the taxpayers, the shippers, producers, and consumers of the country that every railroad in the United States, however circumstanced or managed, shall make money, and that every man in the United States who speculates or invests in the stocks and bonds of railroads shall be insured a profit, and this the Government does for no other class or industry, corporate or individual;

To loan direct to the railroads hundreds of millions of dollars of the people's money, which it does for no other class or industry;

To guarantee out of the Treasury and the pockets of the taxpayers indefinite millions to make good the deficits and losses of the railroads not taken over by the Government, which may have occurred during the period that the Government operated and controlled other roads;

To make the Government in its settlement with the railroads pay cash for its indebtedness and damages to the roads without the right of set-off, except in the most limited extent, and to extend the indebtedness of the railroads to the Government to the amount of over $1,000,000,000 for 10 years;

To force the farmers, merchants, and manufacturers living on one road to pay increased freight rates on everything they sell or buy to help another road make money on which they never ship a pound of freight;

To take profits from one road and bestow it upon another;

To destroy the rights of the States which they have exclusively exercised since the beginning of the Government to control intrastate traffic, including in such traffic the right to control the distribution of cars, of adjusting proper schedules and connections, of fixing rates, of building depots, and so forth;

To render void all railroad legislation in the States and to nullify the constitution of at least three States with respect to railroads; and

To exempt the railroads and their officials, lawyers, and agents from the penalties of the antitrust laws, which the Government does not do for any other corporation or individual—to make a virtue of an act by railroads, their officials, lawyers, and agents, which is a crime in all others.

When this bill begins to operate, especially after the six months' guaranty period, during which time the taxpayers must sustain the entire burden, and freight and passenger rates begin to increase from 25 to 50 per cent, adding to the burdens of the shippers, the producers, and consumers at least a billion dollars annually; when appropriations for the railroads are increased; when taxes are increased; when the public indebtedness is increased; when the Government losses from guaranties and settlements under this bill are found to be many hundreds of millions more than now estimated; when the cost of living is increased; when the railroad stockholders and bondholders have had their stocks and bonds increased in value at least $2,000,000,000; when Wall Street speculators have added to their fortunes a billion dollars or more; when the people of the States discover that all rights of their States over intrastate traffic have been destroyed and the laws and constitutions of the States relating to carriers have been nullified; when it is ascertained that while all corporations and individuals are subject to penalties of the antitrust laws, the railroads, their officials, lawyers, and agents are absolutely exempt—when all this favoritism and discrimination and all these burdens loom large and heavy before the eyes of an awakened people, I trust that gentlemen who vote for the adoption of this report will be able to solace themselves with the reflection that their votes were directly responsible for them all, and with the further reflection that they knew at the time of casting their votes all of them would be the direct consequences of such votes.

In conclusion, Mr. Speaker, I am in favor of giving the roads back to their owners, but I am unwilling to give to them, as this report does, the Federal Treasury, the taxpayers, and shippers "to boot." [Applause.]

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. WINSLOW. I yield the remainder of my time, eight minutes, to the gentleman from Wyoming [Mr. MONDELL]. [Applause.]

Mr. MONDELL. Mr. Speaker, the hour is here when we are to have the opportunity to perform the greatest service to our

country and our constituencies that we shall be privileged to perform during this Congress—that of advancing constructive railroad legislation to final enactment.

We are about to perform the most important duty of the time—that of providing legislation for the orderly administration of the railway systems of the Government when, under the President's proclamation recently issued, the railroads return to private management.

If this great measure, with its more than 100 pages of legislation, dealing with every feature and factor of the great transportation systems of the country, were entirely satisfactory in every detail to any one individual I should be suspicious of it, for I realize, as we all must, that no two thoughtful, intelligent men can have exactly the same opinion relative to every one of the hundreds of important features of such legislation.

The very fact that while its fundamental and basic soundness is practically unanimously admitted there is considerable difference of opinion with regard to some of its details affords the best possible evidence that the measure is a wise and workable product of our legislative system—a system under which the best judgment of trained legislators, formed after careful consideration, in the light of the widest possible information subjected to the test of debate and amendment in the two Houses, produces legislation representing the best judgment of a majority of the Congress.

Gentlemen attempt to justify their opposition to the bill on account of the provisions of the labor section, and yet anyone who has given that section careful consideration knows that there is not a line nor a word in it that can reasonably be objected to by any reasonable man; there is not a line of coercion or compulsion in it. If it has any fault at all, it is the fault of furnishing overelaborate provision for the submission and consideration of labor questions, but no man is required to either submit his grievances to or be controlled by the decisions of the agencies which are provided. [Applause.] It leaves every man free to work or quit work, individually or in combination with his fellows, and binds him not at all.

Gentlemen assume to be against the measure on the alleged ground that it contains improper guaranties, and yet it contains no guaranty whatever except the guaranty that wages of the employees shall not be reduced and, for the same period of six months, a guaranty of continuation of the standard return which the roads are now getting. The men who are complaining the loudest against this are the very men who would continue Federal control and the standard guaranty indefinitely. [Applause.]

The responsibility for the passage of this measure is primarily on this side. We are about to determine whether or not as a party in this House of Representatives we are qualified to legislate along constructive lines. [Applause.] But the gentlemen on the other side can not escape individual, though they may attempt to escape party, responsibility. No man on either side can vote against this conference report, praying at the same time that the report may be adopted, and get away with it. The American people—American constituencies—will not be mocked or fooled in matters of this importance. [Applause.]

By irrevocable presidential proclamation the roads will be returned to their owners and private management when the hour of midnight strikes the last day of this month, and the question before us is, Shall they return under legislation that will make possible the successful operation of the roads and the furnishing of adequate transportation facilities to the people, or shall they return under circumstances certain to create chaos, produce confusion, and bring nation-wide disaster? We are called upon to decide which it shall be. Shall we perform our duty? [Applause.]

No man can afford to vote against this conference report except the man—if any such there be—who is so enamored of public ownership that he is willing to invite nation-wide distress and disaster, beginning the 1st of March, in the vain hope that out of the wreck will come Government ownership.

The issue is so great, the interests involved are so vital, that no American constituency anywhere will allow any man to get away with hairsplitting, pusillanimous objections to some minor provision in this bill. The hour has struck in the orderly processes of our Government when a great piece of constructive legislation, having passed the tests of committee consideration and been placed upon the legislative anvil, is now before us in its finished and perfected form. The responsibility rests on us to say whether or not, notwithstanding stout and selfish opposition, we shall rise to the occasion, assume the responsibility the people have placed upon us, and vote for this conference report and against every motion that shall be made to delay the enactment of this wise, sound, constructive legislation. [Applause.]

Mr. ESCH. Mr. Speaker, I understand that under the order of the House the previous question is considered as ordered.

The SPEAKER. The previous question is considered as ordered.

Mr. BARKLEY. Mr. Speaker, I desire to offer a motion to recommit the conference report.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. BARKLEY. I am opposed to the bill.

The SPEAKER. The gentleman from Kentucky makes a motion to recommit, which the Clerk will report.

The Clerk read as follows:

Mr. BARKLEY moves to recommit the conference report on bill H. R. 10453 to the committee on conference.

Mr. ESCH. Mr. Speaker, I move the previous question on the motion to recommit.

The SPEAKER. The gentleman from Wisconsin moves the previous question on the motion to recommit.

Mr. BARKLEY. On that, Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 171, nays 229, not voting 28, as follows:

YEAS—171.

Almon	Ellsworth	Lankford	Rhodes
Ashbrook	Emerson	Lazaro	Riordan
Aswell	Evans, Mont.	Lea, Calif	Robinson, N. C.
Ayres	Evans, Nev.	Lee, Ga.	Rodenberg
Babka	Fisher	Lesher	Romjue
Baer	Flood	McAndrews	Rouse
Bankhead	Focht	McClintic	Rowan
Barkley	Frear	McDuffie	Rubey
Bee	Gallagher	McGlennon	Rucker
Bland, Mo.	Gallivan	McKeown	Sabath
Bland, Va.	Gandy	McKinley	Sanders, La.
Box	Ganly	McLane	Saunders, Va.
Brand	Gard	Maher	Scott
Briggs	Garland	Major	Sherwood
Brinson	Garner	Mansfield	Sims
Browne	Garrett	Martin	Sinclair
Brumbaugh	Godwin, N. C.	Mason	Sisson
Buchanan	Goldfogle	Mays	Smith, N. Y.
Burke	Goodwin, Ark.	Mead	Smithwick
Byrnes, S. C.	Griffin	Minahan, N. J.	Stedman
Byrns, Tenn.	Hamill	Montague	Stephens, Miss.
Caldwell	Hardy, Tex.	Moon	Stevenson
Campbell, Pa.	Hastings	Mooney	Stoll
Candler	Hayden	Moore, Va.	Tague
Carew	Heflin	Morin	Taylor, Ark.
Carss	Howard	Nelson, Mo.	Taylor, Colo.
Carter	Huddleston	Nicholls, S. C.	Thomas
Casey	Hull, Tenn.	Nichols, Mich.	Tillman
Classon	Igoe	Nolan	Upshaw
Cleary	Jacoway	O'Connell	Venable
Collier	James	O'Connor	Voigt
Connally	Johnson, Ky.	Oldfield	Watkins
Cullen	Johnson, Miss.	Oliver	Weaver
Davis, Minn.	Johnston, N. Y.	Overstreet	Welling
Davis, Tenn.	Jones, Tex.	Park	Welty
Dent	Keller	Phelan	Whaley
Dickinson, Mo.	Kelly, Pa.	Porter	Wheeler
Donovan	Kincheloe	Quin	Wilson, La.
Dooling	King	Rainey, Ala.	Wilson, Pa.
Doremus	Kitchin	Rainey, H. T.	Wingo
Doughton	Kleczka	Rainey, J. W.	Wise
Eagan	Lampert	Raker	Young, Tex.
Eagle	Lanham	Randall, Calif.	

NAYS—229.

Ackerman	Dallinger	Harreld	Little
Anderson	Darrow	Harrison	Lonergan
Andrews, Md.	Dempsey	Haugen	Longworth
Andrews, Nebr.	Denison	Hawley	Luce
Anthony	Dewalt	Hays	Lufkin
Bacharach	Dickinson, Iowa	Hernandez	Luhring
Barbour	Dowell	Hersey	McArthur
Begg	Drane	Hersman	McCulloch
Benham	Dunbar	Hickey	McFadden
Benson	Dunn	Hicks	McKenzie
Black	Dupré	Hill	McKinley
Bland, Ind.	Dyer	Hoch	McLaughlin, Mich.
Boles	Echols	Hoey	McLaughlin, Nebr.
Bowers	Edmonds	Holland	McPherson
Britten	Elliott	Houghton	MacCrate
Brooks, Ill.	Elston	Hulings	MacGregor
Brooks, Pa.	Esch	Hull, Iowa	Madden
Browning	Evans, Nebr.	Humphreys	Magee
Burdick	Fairfield	Husted	Mann, Ill.
Burroughs	Fess	Hutchinson	Mapes
Butler	Foster	Jefferis	Merritt
Campbell, Kans.	Freeman	Johnson, S. Dak.	Michener
Cannon	French	Johnson, Wash.	Miller
Cantrill	Fuller, Ill.	Jones, Pa.	Monahan, Wis.
Chindblom	Fuller, Mass.	Juul	Mondell
Christopherson	Glynn	Kahn	Moore, Ohio
Clark, Fla.	Good	Kearns	Moores, Ind.
Coady	Goodall	Kelley, Mich.	Morgan
Cole	Goodykoontz	Kendall	Mott
Cooper	Gould	Kennedy, R. I.	Mudd
Copley	Graham, Ill.	Kettner	Murphy
Costello	Green, Iowa	Kiess	Neely
Crago	Greene, Mass.	Kinkaid	Nelson, Wis.
Cramton	Greene, Vt.	Kraus	Newton, Minn.
Crisp	Griest	Langley	Newton, Mo.
Crowther	Hadley	Layton	Ogden
Currie, Mich.	Hamilton	Lehlbach	Olney
Dale	Hardy, Colo.	Linthicum	Osborne

Padgett	Robsion, Ky.	Strong, Kans.	Walters
Paige	Rogers	Strong, Pa.	Ward
Parker	Rose	Sullivan	Wason
Parrish	Rowe	Summers, Wash.	Watson
Pell	Sanders, N. Y.	Sweet	Webster
Peters	Sanford	Swope	White, Kans.
Platt	Sells	Taylor, Tenn.	White, Me.
Pou	Shreve	Temple	Williams
Purnell	Siegel	Thompson	Wilson, Ill.
Radcliffe	Sinnott	Tilson	Winslow
Ramsey	Slemp	Timberlake	Wood, Ind.
Ramseyer	Small	Tincher	Woods, Va.
Randall, Wis.	Smith, Idaho	Tinkham	Woodyard
Rayburn	Smith, Ill.	Towner	Wright
Reavis	Smith, Mich.	Treadway	Yates
Reber	Snell	Vaile	Young, N. Dak.
Reed, N. Y.	Steele	Vare	Zihlman
Reed, W. Va.	Steenerson	Vestal	
Ricketts	Stephens, Ohio	Volstead	
Riddick	Stiness	Walsh	

NOT VOTING—28.

Bell	Davey	Ireland	Schall
Blackmon	Dominick	Kennedy, Iowa	Scully
Blanton	Ferris	Knutson	Sears
Booher	Fields	Kreider	Snyder
Caraway	Fordney	Larsen	Steagall
Clark, Mo.	Graham, Pa.	Mann, S. C.	Sumners, Tex.
Curry, Calif.	Hudspeth	Sanders, Ind.	Vinson

So the motion to recommit was rejected.

The Clerk announced the following pairs:

On the vote:

Mr. FERRIS (for) with Mr. SNYDER (against).

Mr. DOMINICK (for) with Mr. KENNEDY of Iowa (against).

Mr. SUMNERS of Texas (for) with Mr. FORDNEY (against).

Mr. CLARK of Missouri (for) with Mr. SCULLY (against).

Mr. DAVEY (for) with Mr. SANDERS of Indiana (against).

Mr. CURRY of California (for) with Mr. BLANTON (against).

Mr. VINSON (for) with Mr. GRAHAM of Pennsylvania (against).

Until further notice:

Mr. SCHALL with Mr. CARAWAY.

Mr. KREIDER with Mr. BLACKMON.

Mr. IRELAND with Mr. HUDSPETH.

Mr. KNUTSON with Mr. BELL.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on agreeing to the conference report.

The question was taken, and the Speaker announced the ayes seemed to have it.

Mr. BARKLEY, Mr. TAYLOR of Colorado, and Mr. MADDEN. Mr. Speaker, I demand the yeas and nays.

The SPEAKER. The gentleman from Kentucky demands the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 250, nays 150, answered "present" 1, not voting 27, as follows:

YEAS—250.

Ackerman	Dowell	Hickey	McPherson
Anderson	Drane	Hicks	MacCrate
Andrews, Md.	Dunbar	Hill	MacGregor
Andrews, Nebr.	Dunn	Hoch	Madden
Anthony	Dupré	Hoey	Magee
Bacharach	Dyer	Holland	Mann, Ill.
Barbour	Eagle	Houghton	Mapes
Begg	Echols	Hulings	Merritt
Benham	Edmonds	Hull, Iowa	Michener
Benson	Elliott	Humphreys	Miller
Black	Elston	Husted	Monahan, Wis.
Bland, Ind.	Esch	Hutchinson	Mondell
Boies	Evans, Nebr.	Ireland	Montague
Bowers	Fairfield	Jefferis	Moore, Ohio
Britten	Fess	Johnson, S. Dak.	Moore, Va.
Brooks, Ill.	Flood	Johnson, Wash.	Moores, Ind.
Brooks, Pa.	Focht	Johnston, N. Y.	Morgan
Browning	Foster	Jones, Pa.	Mott
Burdick	Freeman	Juul	Mudd
Burroughs	French	Kahn	Murphy
Butler	Fuller, Ill.	Kearns	Neely
Campbell, Kans.	Fuller, Mass.	Kelley, Mich.	Nelson, Wis.
Cannon	Garland	Kendall	Newton, Minn.
Cantrill	Garrett	Kennedy, R. I.	Newton, Mo.
Chindblom	Glynn	Kettner	Ogden
Christopherson	Godwin, N. C.	Kiess	Olney
Clark, Fla.	Good	Kinkaid	Osborne
Cleary	Goodall	Kraus	Overstreet
Coady	Goodykoontz	Langley	Padgett
Cole	Gould	Layton	Paige
Cooper	Graham, Ill.	Lehlbach	Park
Copley	Green, Iowa	Linthicum	Parker
Costello	Greene, Mass.	Little	Parrish
Crago	Greene, Vt.	Lonergan	Pell
Cramton	Griest	Longworth	Peters
Crisp	Hadley	Luce	Platt
Crowther	Hamilton	Lufkin	Porter
Currie, Mich.	Hardy, Colo.	Luhring	Pou
Dale	Harreld	McArthur	Purnell
Dallinger	Harrison	McCulloch	Radcliffe
Darrow	Hawley	McFadden	Ramsey
Davis, Tenn.	Hays	McKenzie	Ramseyer
Dempsey	Hernandez	McKinley	Randall, Wis.
Dewalt	Hersey	McLaughlin, Mich.	Rayburn
Dickinson, Iowa	Hersman	McLaughlin, Nebr.	Reavis
Reber	Small	Temple	Watson
Reed, N. Y.	Smith, Idaho	Thompson	Webster
Reed, W. Va.	Smith, Ill.	Tilson	Welling
Ricketts	Smith, Mich.	Timberlake	Wheeler
Riddick	Smith, N. Y.	Tincher	White, Kans.
Robsion, Ky.	Snell	Tinkham	White, Me.
Rodenberg	Steele	Towner	Williams
Rogers	Steenerson	Treadway	Wilson, Ill.
Rose	Stephens, Ohio	Upshaw	Winslow
Rowe	Stiness	Vaile	Wood, Ind.
Sanders, N. Y.	Strong, Kans.	Vare	Woods, Va.
Sanford	Strong, Pa.	Venable	Woodyard
Saunders, Va.	Sullivan	Vestal	Wright
Sells	Summers, Wash.	Volstead	Yates
Shreve	Sweet	Walsh	Young, N. Dak.
Siegel	Swope	Walters	Zihlman
Sinnott	Taylor, Colo.	Ward	
Slemp	Taylor, Tenn.	Wason	

NAYS—150.

Almon	Doremus	Lampert	Raker
Ashbrook	Doughton	Lanham	Randall, Calif.
Aswell	Eagan	Lankford	Rhodes
Ayres	Ellsworth	Lazaro	Riordan
Babka	Emerson	Lea, Calif.	Robinson, N. C.
Baer	Evans, Mont.	Lee, Ga.	Romjue
Bankhead	Evans, Nev.	Lesher	Rouse
Barkley	Fisher	McAndrews	Rowan
Bee	Frear	McClintic	Rubey
Bland, Mo.	Gallagher	McDuffie	Rucker
Bland, Va.	Gallivan	McGlennon	Sabath
Box	Gandy	McKeown	Sanders, La.
Brand	Ganly	McKiniry	Scott
Briggs	Gard	McLane	Sherwood
Brinson	Garner	Maher	Sims
Browne	Goldfogle	Major	Sinclair
Brumbaugh	Goodwin, Ark.	Mansfield	Sisson
Buchanan	Griffin	Martin	Smithwick
Burke	Hamill	Mason	Stedman
Byrnes, S. C.	Hardy, Tex.	Mays	Stephens, Miss.
Byrns, Tenn.	Hastings	Mead	Stevenson
Caldwell	Hayden	Minahan, N. J.	Stoll
Campbell, Pa.	Heflin	Moon	Tague
Candler	Howard	Mooney	Taylor, Ark.
Carew	Huddleston	Morin	Thomas
Carss	Hull, Tenn.	Nelson, Mo.	Tillman
Carter	Igoe	Nicholls, S. C.	Voigt
Casey	Jacoway	Nichols, Mich.	Watkins
Classon	James	Nolan	Weaver
Collier	Johnson, Ky.	O'Connell	Welty
Connally	Johnson, Miss.	O'Connor	Whaley
Cullen	Jones, Tex.	Oldfield	Wilson, La.
Davis, Minn.	Keller	Oliver	Wilson, Pa.
Denison	Kelly, Pa.	Phelan	Wingo
Dent	Kincheloe	Quin	Wise
Dickinson, Mo.	King	Rainey, Ala.	Young, Tex.
Donovan	Kitchin	Rainey, H. T.	
Dooling	Kleczka	Rainey, J. W.	

ANSWERED "PRESENT"—1.

Bell

NOT VOTING—27.

Blackmon	Dominick	Kennedy, Iowa	Scully
Blanton	Ferris	Knutson	Sears
Booher	Fields	Kreider	Snyder
Caraway	Fordney	Larsen	Steagall
Clark, Mo.	Graham, Pa.	Mann, S. C.	Sumners, Tex.
Curry, Calif.	Haugen	Sanders, Ind.	Vinson
Davey	Hudspeth	Schall	

So the conference report was agreed to.

The Clerk announced the following additional pairs:

On the conference report:

Mr. KENNEDY of Iowa (for) with Mr. DOMINICK (against).

Mr. SCULLY (for) with Mr. CLARK of Missouri (against).

Mr. FORDNEY (for) with Mr. SUMNERS of Texas (against).

Mr. SANDERS of Indiana (for) with Mr. DAVEY (against).

Mr. BLANTON (for) with Mr. CURRY of California (against).

Mr. GRAHAM of Pennsylvania (for) with Mr. VINSON (against).

Until further notice:

Mr. HAUGEN with Mr. SEARS.

Mr. KREIDER with Mr. BLACKMON.

Mr. SCHALL with Mr. HUDSPETH.

Mr. KNUTSON with Mr. BELL.

Mr. SNYDER with Mr. FERRIS.

The result of the vote was announced as above recorded.

On motion of Mr. ESCH, a motion to reconsider the vote by which the conference report was agreed to was laid on the table.

ENROLLED BILL SIGNED.

Mr. RAMSEY, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill of the following title, when the Speaker signed the same:

H. R. 3654. An act to authorize the governor of the Territory of Hawaii to acquire privately owned lands and rights of way within the boundaries of the Hawaii National Park.

LEAVES OF ABSENCE.

By unanimous consent, leaves of absence were granted as follows:

To Mr. DOMINICK (at the request of Mr. WHALEY), indefinitely, on account of illness.

To Mr. ELLSWORTH, indefinitely.

EXTENSION OF REMARKS.

Mr. McFADDEN. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection?

Mr. GARD. Reserving the right to object, on what subject?

Mr. McFADDEN. On the rural credit bill that I introduced to-day.

Mr. GARD. Mr. Speaker, I made the reservation because I thought the gentleman made the request to extend his remarks on the conference report. That had all been arranged for. I have no objection to this.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

CAMPS AND CANTONMENTS.

Mr. KAHN, from the Committee on Military Affairs, submitted a conference report on the bill (H. R. 8819) to amend an act entitled "An act making appropriations for the support of the Army for the fiscal year ending June 30, 1920, and for other purposes," approved July 11, 1919, for printing in the RECORD under the rules.

Mr. GARD. Mr. Speaker, I reserve all points of order.

Mr. MANN of Illinois. Mr. Speaker, the gentleman from Ohio [Mr. GARD] reserved all points of order on the conference report asked to be printed under the rules. Can he do that?

The SPEAKER. The proper time to reserve points of order on a conference report is after the report has been read.

Mr. MANN of Illinois. That is the time to make the point of order?

The SPEAKER. It certainly is; and the Chair has not been called upon to decide whether a reservation made in advance is valid or not. It is the proper time after the report has been read, and it would be well to make it at that time.

ADJOURNMENT.

Mr. ESCH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 45 minutes p. m.) the House adjourned until Monday, February 23, 1920, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, a letter from the Secretary of the Navy transmitting request for proposed legislation to authorize and empower officers of the naval service to serve under the Republic of Peru, and for other purposes, was taken from the Speaker's table and referred to the Committee on Naval Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. KELLEY of Michigan, from the Committee on Naval Affairs, to which was referred the bill (H. R. 11927), as passed by the Senate February 11, 1920, to increase the efficiency of the Navy and Coast Guard through the temporary provision of bonuses or increased compensation, reported the same with the recommendation that the Senate amendments be disagreed to and that the House agree to a conference, accompanied by a report (No. 666), which said bill and report were referred to the Union Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. BEE, from the Committee on Claims, to which was referred the bill (H. R. 4184) for the relief of C. V. Hinkle, reported the same with an amendment, accompanied by a report (No. 667), which said bill and report were referred to the Private Calendar.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 6296) authorizing the Cowlitz Tribe of Indians, residing in the State of Washington, to submit claims to the Court of Claims; Committee on Claims discharged, and referred to the Committee on Indian Affairs.

A bill (H. R. 5479) granting a pension to James Sullivan; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 11626) granting a pension to Lucille Henninger; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 6114) granting a pension to John W. Hays; Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 12619) granting a pension to Thomas N. Swearingen; Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 11483) granting a pension to Mary E. Nevins; Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. McFADDEN: A bill (H. R. 12678) to create a rural credit society and general insurance league to facilitate the increase and reduce the cost of farm production and act as the fiscal and financial agents for the Government of the United States, to create two such agents, and for other purposes; to the Committee on Banking and Currency.

By Mr. CAMPBELL of Kansas: A bill (H. R. 12679) to establish in the Department of Labor a bureau to be known as the Women's Bureau; to the Committee on Labor.

By Mr. RAINEY of Alabama: A bill (H. R. 12680) for a survey of the Coosa River, in Alabama; to the Committee on Rivers and Harbors.

By Mr. HUSTED: A bill (H. R. 12681) to punish efforts to overthrow the Government of the United States by physical force or violence or by the assassination of any officer thereof; to the Committee on the Judiciary.

By Mr. GREEN of Iowa (by request): A bill (H. R. 12682) for the enforcement of the national prohibition act by establishing and maintaining Government warehouses, and for other purposes; to the Committee on Ways and Means.

By Mr. KALANIANAOLE: A bill (H. R. 12683) to amend an act entitled "An act to provide a government for the Territory of Hawaii," approved April 30, 1900, as amended by an act approved March 3, 1905, and as further amended by an act approved April 2, 1908, and as further amended by an act approved March 3, 1909, and as further amended by an act approved May 27, 1910, by amending sections 26, 55, 66, 73, 80, 86, and 92 thereof and by adding two new sections thereto, to be known as sections 73a and 103a; to the Committee on the Territories.

By Mr. KELLEY of Michigan: A bill (H. R. 12684) to authorize and empower officers of the naval service to serve under the Republic of Peru, and for other purposes; to the Committee on Naval Affairs.

By Mr. KRAUS: A bill (H. R. 12685) to repeal an act entitled "An act authorizing the President to coordinate or consolidate executive bureaus, agencies, and offices, and for other purposes, in the interest of economy and the more efficient concentration of the Government"; to the Committee on the Judiciary.

By Mr. LUHRING: Resolution (H. Res. 468) to increase the pay of the four assistant bill clerks; to the Committee on Accounts.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BENHAM: A bill (H. R. 12686) granting an increase of pension to Ruth Ann Porter; to the Committee on Invalid Pensions.

By Mr. BROOKS of Illinois: A bill (H. R. 12687) granting an increase of pension to George W. Tracy; to the Committee on Invalid Pensions.

By Mr. DARROW: A bill (H. R. 12688) granting a pension to Aolia Lauber; to the Committee on Pensions.

Also, a bill (H. R. 12689) granting a pension to Elwood I. Beatty; to the Committee on Pensions.

By Mr. EAGLE: A bill (H. R. 12690) for the relief of Frank Boddeker; to the Committee on Claims.

By Mr. EMERSON: A bill (H. R. 12691) granting a pension to William Camp; to the Committee on Pensions.

By Mr. FESS: A bill (H. R. 12692) granting an increase of pension to George M. Wallace; to the Committee on Invalid Pensions.

By Mr. HAYS: A bill (H. R. 12693) granting an increase of pension to David Pepple; to the Committee on Pensions.

Also, a bill (H. R. 12694) granting a pension to Austin R. Fite; to the Committee on Pensions.

By Mr. HERNANDEZ: A bill (H. R. 12695) granting a pension to Julianita G. Ortiz; to the Committee on Invalid Pensions.

By Mr. JOHNSON of Kentucky: A bill (H. R. 12696) granting an increase of pension to John H. Langley; to the Committee on Invalid Pensions.

By Mr. KRAUS: A bill (H. R. 12697) to carry out the findings of the Court of Claims in the case of John R. Polk, lieutenant colonel, Eighth Regiment Indiana Volunteer Infantry, Civil War; to the Committee on War Claims.

By Mr. PADGETT: A bill (H. R. 12698) granting a pension to Israel W. Bennett; to the Committee on Pensions.

By Mr. RANDALL of Wisconsin: A bill (H. R. 12699) granting an increase of pension to William P. Underwood; to the Committee on Invalid Pensions.

By Mr. HENRY T. RAINEY: A bill (H. R. 12700) granting a pension to Sarah E. Hall; to the Committee on Invalid Pensions.

By Mr. ROUSE: A bill (H. R. 12701) granting a pension to Charles T. Weaver; to the Committee on Invalid Pensions.

By Mr. RUBEY: A bill (H. R. 12702) granting an increase of pension to Rufus C. Williams; to the Committee on Invalid Pensions.

By Mr. SCHALL: A bill (H. R. 12703) granting a pension to Thomas W. Lang; to the Committee on Invalid Pensions.

By Mr. SINNOTT: A bill (H. R. 12704) granting a pension to Caroline T. Huff; to the Committee on Pensions.

By Mr. SULLIVAN: A bill (H. R. 12705) granting a pension to John Lynch; to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

1740. By Mr. ASHBROOK: Petition of the D. C. Stone, jr., Post, No. 136, of the American Legion, of Mount Vernon, Ohio, favoring a $50 Government bond for each month's service of soldiers in the late war; to the Committee on Ways and Means.

1741. By Mr. CAREW: Petition of the American Association of Engineers (Inc.) of New York, N. Y., favoring the reclassification of salaries recommended by the Keating Commission; to the Committee on Labor.

1742. Also, petition of the Three hundred and seventh Infantry Post of the American Legion, favoring universal military training; to the Committee on Military Affairs.

1743. By Mr. CULLEN: Petition of Brooklyn Post Office Clerks' Union, No. 251, favoring the making of Lincoln's birthday a holiday for men in the Post Office Service; to the Committee on the Post Office and Post Roads.

1744. Also, petition of Brooklyn Post Office Clerks' Union, Local No. 251, opposing the Sterling-Graham peace-time sedition bill; to the Committee on the Judiciary.

1745. By Mr. CURRY of California: Petition of Silverado Grange, No. 370, Patrons of Husbandry, of Calistoga, Calif., opposing oriental immigration to the United States; to the Committee on Immigration and Naturalization.

1746. Also, petition of 26 citizens of the State of California, protesting against the sale by the United States Shipping Board of 30 former German ships; to the Committee on the Merchant Marine and Fisheries.

1747. By Mr. FOCHT: Evidence in support of House bill 10489, granting a pension to Mrs. Anna Detwilder; to the Committee on Pensions.

1748. By Mr. FULLER of Illinois: Petition of Jane P. Hubbell, librarian of the Rockford (Ill.) Public Library, favoring House bill 6870; to the Committee on Education.

1749. Also, petition of the National Federation of Federal Employees, Washington, D. C., favoring an increase in the bonus provided in the legislative, executive, and judicial appropriation bill; to the Committee on Appropriations.

1750. Also, petition of St. Louis Chamber of Commerce, of St. Louis, Mo., concerning Mexican affairs; to the Committee on Foreign Affairs.

1751. Also, petition of American Federation of Labor, Local Union No. 15107, of Streator, Ill., protesting against the Sterling-Graham sedition bill; to the Committee on the Judiciary.

1752. Also, petition of Railway Employees' Department of the American Federation of Labor, Washington, D. C., opposing the conference report on the Cummins-Esch railroad bill; to the Committee on Interstate and Foreign Commerce.

1753. Also, petition of William N. Pelouze, president of the Illinois Manufacturers' Association, favoring the Esch-Cummins railroad bill; to the Committee on Interstate and Foreign Commerce.

1754. By Mr. GALLIVAN: Petition of Frank J. Westwater and nine other residents of Massachusetts, protesting against the proposed sale of the former German ships; to the Committee on the Merchant Marine and Fisheries.

1755. Also, petition of the Commonwealth of Massachusetts, the State department of agriculture, relative to certain provisions in House bill 12272, etc.; to the Committee on Agriculture.

1756. Also, petition of the Boston Branch, Railway Mail Association, of Boston, Mass., indorsing the Sterling-Lehlbach retirement bill; to the Committee on the Post Office and Post Roads.

1757. Also, petition of the Men's Neckwear Cutters' Union, No. 15685, of Boston, Mass., protesting against the Sterling-Graham sedition bill; to the Committee on the Judiciary.

1758. Also, petition of the Federal Employees' Local No. 25 of the National Federation of Federal Employees, relative to increase in bonus; to the Committee on Appropriations.

1759. Also, petition of the licensed officers of the S. S. *Lake Bledsoe*, protesting against the proposed sale of the former German ships, etc.; to the Committee on the Merchant Marine and Fisheries.

1760. By Mr. HERSMAN: Petition of Mare Island Federal Employees' Union, Vallejo; Federal Employees' Union No. 1, San Francisco; and Federal Employees' Union, Benicia Arsenal, Benicia, all in the State of California, praying for the passage of legislation granting a bonus to Government employees of $480 per annum; to the Committee on Appropriations.

1761. By Mr. MACGREGOR: Petition of the Erie National Farm Loan Association, of Buffalo, N. Y., relative to certain legislation, etc.; to the Committee on Banking and Currency.

1762. Also, petition of the Board of Supervisors of Erie County, N. Y., relative to certain legislation; to the Committee on Interstate and Foreign Commerce.

1763. Also, petition of the Buffalo Chamber of Commerce, relative to certain legislation; to the Committee on Agriculture.

1764. Also, petition of citizens of Buffalo, N. Y., relative to certain legislation; to the Committee on Agriculture.

1765. Also, petition of Frank L. Hall, president of the Frank L. Hall Baking Co., of the city of Buffalo., N. Y., protesting against the Gronna bill relative to the wheat guaranty; to the Committee on Agriculture.

1766. By Mr. O'CONNELL: Petition of Brooklyn Post Office Clerks' Union, Local No. 251, opposing the Sterling-Graham peace-time sedition bill; to the Committee on the Judiciary.

1767. Also, petition of Brooklyn Post Office Clerks' Union, Local No. 251, favoring the making of Lincoln's birthday a holiday for men in the Post Office Service; to the Committee on the Post Office and Post Roads.

1768. By Mr. RAKER: Petition of Forbes H. Brown, Mare Island Navy Yard, San Francisco; Alfred Berryessa, of San Francisco; the National Federation of Federal Employees; and J. H. Barry, of San Francisco, all in the State of California, urging increase in the bonus of Federal employees; to the Committee on Appropriations.

1769. Also, petition of the Western Express Messengers' Union, Local No. 2034, protesting against the Esch-Cummins railroad bill, etc.; to the Committee on Interstate and Foreign Commerce.

1770. Also, petition of S. H. McCartney, C. L. Eaton, and C. N. Hamblin, general manager of the Sierra Railway, all of California, urging support of the railroad bill; to the Committee on Interstate and Foreign Commerce.

1771. By Mr. ROWAN: Petition of B. M. Jewell, acting president Railway Employees' Department, American Federation of Labor, and the Farmers' National Council, of Washington, D. C., relative to the pending railroad bill, etc.; to the Committee on Interstate and Foreign Commerce.

1772. Also, papers to accompany House bill 12598, for the relief of the estate of Katherine O'Melia; to the Committee on War Claims.

1773. Also, petition of the National Federation of Federal Employees, of Washington, D. C.; and George Waas, Luther C. Steward, Helen M. Vickinson, and E. W. McKinney, of Troy, N. Y., relative to the bonus for Federal employees, etc.; to the Committee on Appropriations.

1774. Also, petition of the Department of Agriculture of the State of Texas, relative to certain legislation; to the Committee on Agriculture.

1775. Also, petition of Alferd Douglas Flinn, of the city of New York, relative to certain legislation; to the Committee on Appropriations.

1776. Also, petition of the Arion Singing Society of Brooklyn, N. Y., and 1,200 voters in the city, in favor of the pending railroad bill as reported by the conference; to the Committee on Interstate and Foreign Commerce.

1777. Also, petition of the St. Louis Chamber of Commerce, relative to the relations with Mexico; to the Committee on Foreign Affairs.

1778. Also, petition of Fred L. Brown, of New York City, in favor of House bill 2, etc.; to the Committee on Pensions.

1779. Also, petition of various railroad organizations of the United States relative to certain legislation; to the Committee on Interstate and Foreign Commerce.

1780. Also, petition of Eben Moody Boynton, president of the Boynton Railway Co., of the city of Boston, Mass., relative to certain railroad legislation, etc.; to the Committee on Interstate and Foreign Commerce.

1781. Also, petition of the Military Training Camps Association, of Washington, D. C., and Evans & Barnhill Co. (Inc.), favoring universal military training; to the Committee on Military Affairs.

1782. Also, petition of Henry W. Pollock, of the city of New York, relative to the 1-cent postage; to the Committee on the Post Office and Post Roads.

1783. Also, petition of citizens of Williamsport, Pa., favoring House bill 1112; to the Committee on the Judiciary.

1784. By Mr. STINESS: Petition of Rhode Island Society of Optometry, of Providence, R. I., favoring the passage of House joint resolution 92, introduced by Hon. A. T. TREADWAY, providing for the removal of excise taxes on spectacles and eyeglasses; to the Committee on Ways and Means.

1785. By Mr. TAGUE: Petition of the Boston Musicians' Protective Association, protesting against the Sterling-Graham bill; to the Committee on the Judiciary.

1786. Also, petition of Frank M. Gunby, of the city of Boston, Mass., indorsing the Jones-Reavis bill; to the Committee on Labor.

1787. By Mr. THOMPSON: Petition of sundry citizens of Cleveland, Cuyahoga County, Ohio, favoring the passage of the Lehlbach-Sterling bill; to the Committee on Reform in Civil Service.

1788. Also, petition of Burt G. Taylor Post, No. 300, American Legion, Napoleon, Ohio, favoring a $50 bond per month for ex-service men and women for each month served in the late war with Germany; to the Committee on Ways and Means.

1789. Also, petition of sundry citizens of Continental, Putnam County, Ohio, favoring immediate consideration of the Lehlbach-Sterling bill; to the Committee on Reform in the Civil Service.

1790. By Mr. VAILE: Petition of the National Guard Association of Colorado, favoring House bill 3688; to the Committee on Military Affairs.

1791. By Mr. YOUNG of North Dakota: Petition of the Votes for Women League, of North Dakota, indorsing and urging the passage of Senate bill S. 3259; to the Committee on Interstate and Foreign Commerce.

SENATE.

MONDAY, *February 23, 1920.*

The Chaplain, Rev. Forrest J. Prettyman, D. D., offered the following prayer:

Almighty God, we come before Thee with the worship that is ever awakened in our hearts and minds when we reflect upon the name of our first great President. When Thou didst call into being this great spiritual Empire of the West, Thou didst incarnate the principles of its institutions in the life of a man. Thou didst not give to us a king nor a dictator, but a man, and equipped him with spiritual powers for leadership.

We bless Thee that Thou hast ever raised up leaders to meet the exigencies of the times to lead us safely through the turmoil of the years. We bless Thee for their influence that remains with us rising out of the mists of the past, not only as a blessed memory but as a present influence and power to direct our steps and to guide us in the way of truth.

We thank Thee for the legacy that we have received from the name of George Washington and for the final expression of his thought and care for his country when he taught us that if we are to maintain our institutions of freedom we are to maintain them upon the basis of fixed standards of morality, which standards are possible only upon the basis of religion.

So we pray that with the thought of God always in our minds we may go forward with our task to complete the work so well begun by the fathers of this Nation. For Christ's sake. Amen.

On request of Mr. SMOOT, and by unanimous consent, the reading of the Journal of the proceedings of Saturday last was dispensed with and the Journal was approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by D. K. Hempstead, its enrolling clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 10453) to provide for the termination of Federal control of railroads and systems of transportation; to provide for the settlement of disputes between carriers and their employees; to further amend an act entitled "An act to regulate commerce," approved February 4, 1887, as amended, and for other purposes.

The message also announced that the Speaker of the House had signed the enrolled bill (H. R. 3654) to authorize the governor of the Territory of Hawaii to acquire privately owned lands and rights of way within the boundaries of the Hawaii National Park.

CALLING OF THE ROLL.

Mr. SMOOT. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Secretary will call the roll.

The roll was called, and the following Senators answered to their names:

Ashurst	Gay	Lenroot	Robinson
Ball	Glass	Lodge	Sheppard
Beckham	Gore	McKellar	Shields
Brandegee	Gronna	McLean	Simmons
Calder	Hale	McNary	Smith, Ga.
Capper	Harris	Myers	Smoot
Chamberlain	Harrison	Nelson	Spencer
Colt	Henderson	New	Sterling
Culberson	Johnson, S. Dak.	Norris	Sutherland
Cummins	Jones, N. Mex.	Nugent	Townsend
Curtis	Jones, Wash.	Overman	Trammell
Dial	Kellogg	Owen	Underwood
Elkins	Kendrick	Page	Wadsworth
Fernald	Keyes	Phipps	Walsh, Mont.
Fletcher	King	Pittman	Warren
France	Kirby	Pomerene	Watson
Frelinghuysen	Knox	Ransdell	Williams

Mr. DIAL. I desire to announce that my colleague [Mr. SMITH of South Carolina] is detained by illness. I ask that this notice may continue for the day.

Mr. FRELINGHUYSEN. I wish to announce the unavoidable absence of my colleague [Mr. EDGE] on account of illness in his family.

Mr. MCKELLAR. The Senator from Virginia [Mr. SWANSON] is detained by illness in his family.

The Senator from Massachusetts [Mr. WALSH] is detained by the illness of a member of his family.

The Senator from Delaware [Mr. WOLCOTT] and the Senator from Maryland [Mr. SMITH] are absent on public business, and the Senator from Rhode Island [Mr. GERRY] is detained at home by illness.

The PRESIDENT pro tempore. Sixty-eight Senators have answered to their names. There is a quorum present.

READING OF WASHINGTON'S FAREWELL ADDRESS.

The PRESIDENT pro tempore. Senators, under an order of the Senate and in accordance with a long-established and honorable custom Washington's Farewell Address will now be read. Under the previous designation by the Vice President, the senior Senator from Ohio [Mr. POMERENE] will read the address.

Mr. POMERENE read the address, as follows:

To the people of the United States.

FRIENDS AND FELLOW CITIZENS: The period for a new election of a citizen to administer the executive government of the United States being not far distant, and the time actually arrived when your thoughts must be employed in designating the person who is to be clothed with that important trust, it appears to me proper, especially as it may conduce to a more distinct expression of the public voice, that I should now apprise you of the resolution I have formed, to decline being considered among the number of those, out of whom a choice is to be made.

I beg you, at the same time, to do me the justice to be assured, that this resolution has not been taken, without a strict regard to all the considerations appertaining to the relation which binds a dutiful citizen to his country; and that, in withdrawing the tender of service which silence in my situation might imply, I am influenced by no diminution of zeal for your future interest; no deficiency of grateful respect for your past kindness; but am supported by a full conviction that the step is compatible with both.

The acceptance of, and continuance hitherto in the office to which your suffrages have twice called me, have been a uniform sacrifice of inclination to the opinion of duty, and to a deference for what appeared to be your desire. I constantly hoped that it would have been much earlier in my power, consistently with motives which I was not at liberty to disregard, to return to that retirement from which I had been reluctantly drawn. The strength of my inclination to do this, previous to the last